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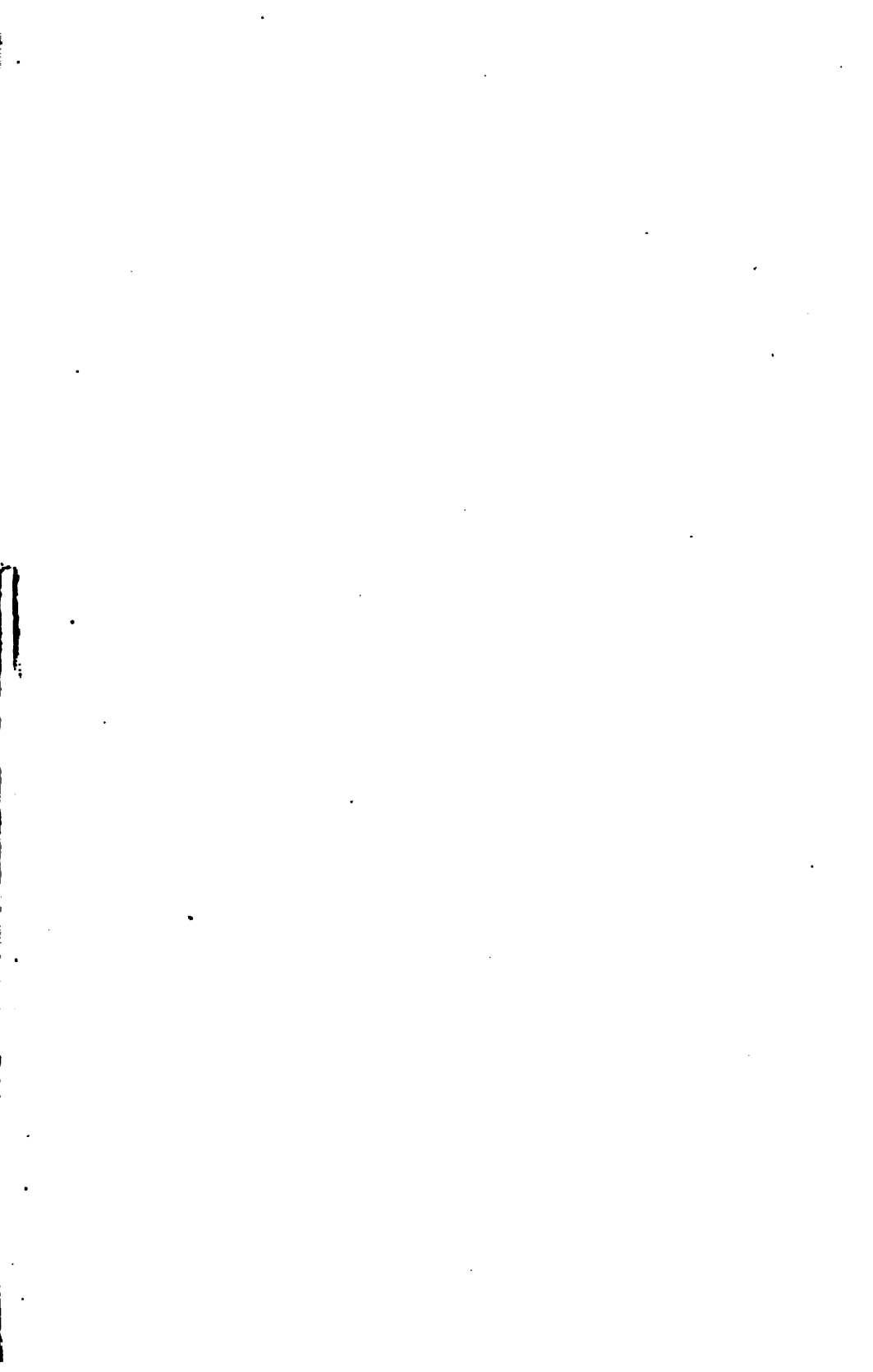
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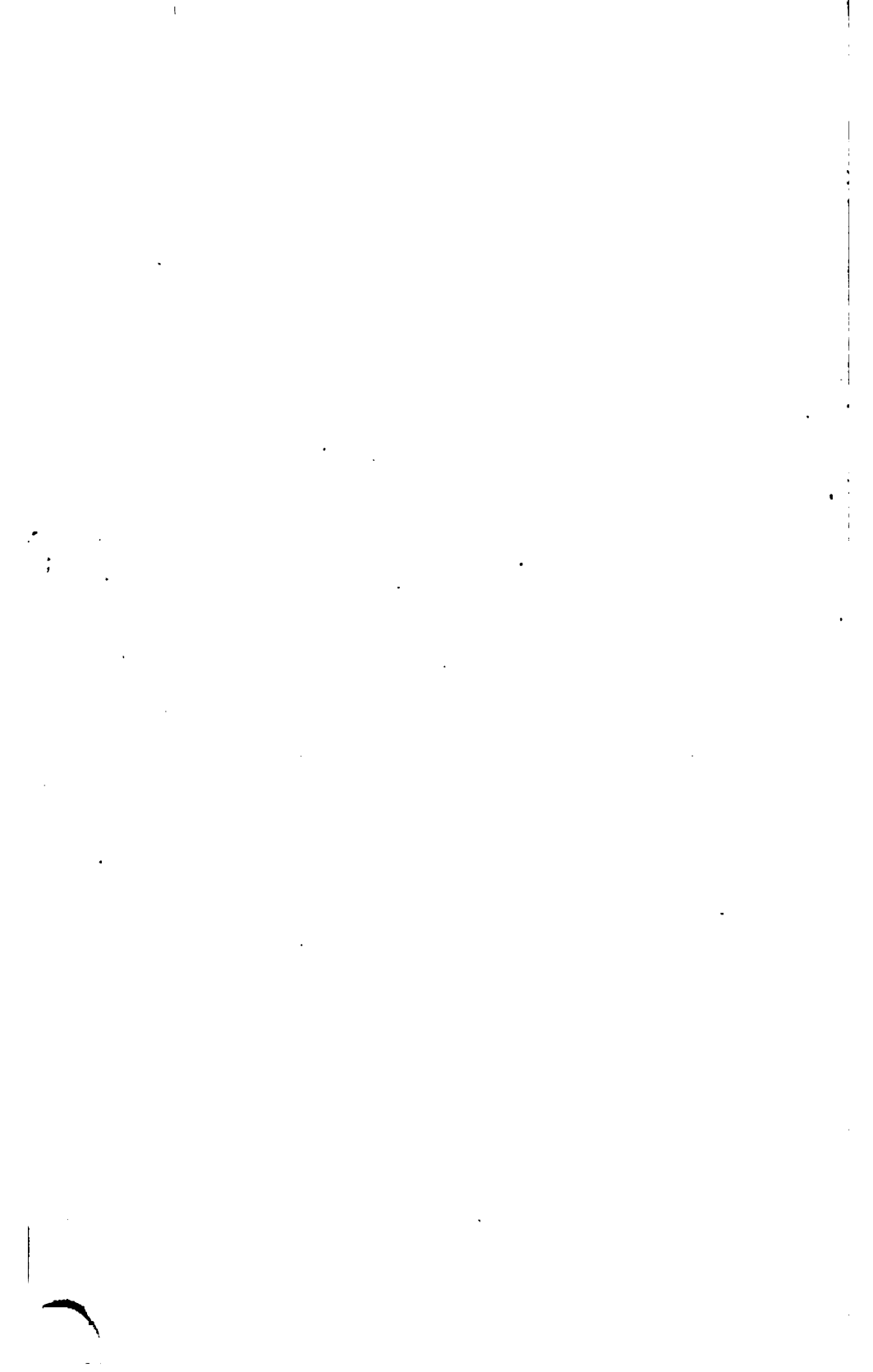
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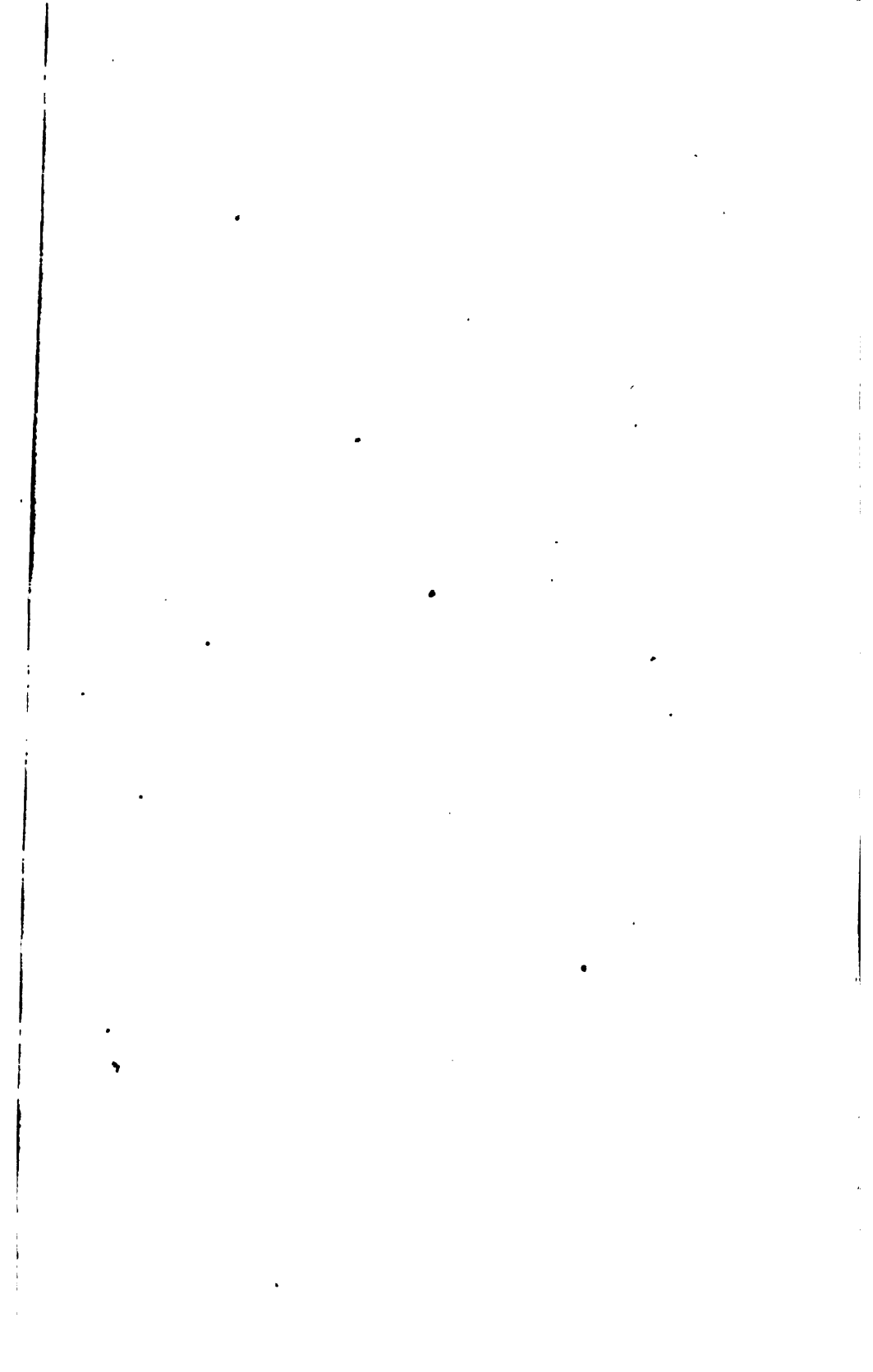
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FOURTEENTH ANNUAL REPORT
OF THE
Board of Railroad Commissioners
OF THE
STATE OF NEW YORK,
FOR THE YEAR 1896.

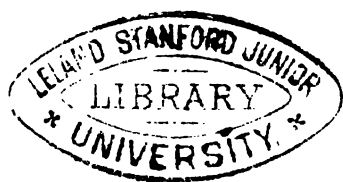
TRANSMITTED TO THE LEGISLATURE JANUARY 6, 1897.

COMMISSIONERS:
SAMUEL A. BEARDSLEY, | * MICHAEL RICKARD,
ALFRED C. CHAPIN.

VOLUME I.

WYNKOOP HALLENBECK CRAWFORD CO.,
STATE PRINTERS,
ALBANY AND NEW YORK.
1897.

* Died at Albany, December 12, 1896.



H. 5640.

STATE OF NEW YORK.

No. 10.

IN SENATE,

JANUARY 6, 1897.

FOURTEENTH ANNUAL REPORT

OF THE

Board of Railroad Commissioners on the Rail-
roads of the State.

STATE OF NEW YORK:

BOARD OF RAILROAD COMMISSIONERS, }
ALBANY, *January 6, 1897.* }

To the Honorable the Legislature of the State of New York:

Pursuant to the requirements of the Railroad Law, the Board of Railroad Commissioners herewith submits its fourteenth annual report.

CHARLES R. DEFREEST,

Secretary.

IN MEMORIAM.

MICHAEL RICKARD.

DIED AT ALBANY, DECEMBER 12, 1898.

Michael Rickard was appointed Railroad Commissioner by Governor Hill, November 14, 1887, to serve the unexpired term of John D. Kernan, resigned. He was reappointed by Governor Hill for the full term ending January 29, 1893, and was appointed for a second full term on February 1, 1893, by Governor Flower. Mr. Rickard's second term would have expired on January 29, 1898.

Mr. Rickard was born February 1, 1837, at East Creek, Herkimer County, this State. He began work at the age of twelve, assisting chainmen in the survey of what is now the New York Central railroad through the Mohawk valley. Upon the completion of the road he was detailed to office work and served in various capacities. While agent at Amsterdam he determined to become a locomotive engineer and entered that branch of the service, with which he was connected as fireman and engineer for more than thirty years. He was first apprised of his appointment as Railroad Commissioner when his train, en-route from Syracuse to Albany, stopped at Utica, then his place of residence. He received the announcement with the remark "my wife will be pleased," resumed his duty at the throttle and continued to his destination where his commission was handed him as he stepped from his engine.

Mr. Rickard was rated as one of the best engineers in the employ of the Central-Hudson Company. Careful, courageous and thoroughly conscientious in the discharge of his duty, he commanded the respect of his associates and of the officials of the road, by whom he was invariably selected for such service upon his division as required coolness and skill. His practical ideas and knowledge of railroad operation and management were of great benefit to the Commission of which he was for nearly ten years a member. His investigations were always characterized by thoroughness and impartiality. He had a high regard for his official obligations. He endeared himself to his associates on the Commission by his uniform courtesy, and he will be held in pleasing remembrance for the many qualities he possessed that made him so universally respected.

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REPORT.

STATE OF NEW YORK:

BOARD OF RAILROAD COMMISSIONERS, }
ALBANY, *December 28, 1896.* }

To the Honorable the Legislature of the State of New York:

Pursuant to the requirements of the Railroad Law, the Board of Railroad Commissioners submits its fourteenth annual report.

General Situation.

During the year ending June 30, 1896, there was a decided improvement over 1895 in gross earnings from operation. The increase was \$10,891,237.51, which at the ordinary percentage of cost of operation should have left a handsome surplus for the dividend account. The great reduction, however, in the maintenance items of operating expenses during the preceding unprofitable years compelled extraordinary expenditures in 1896 on these accounts, and almost the entire increase has gone into cost of operation — to be exact, \$9,725,814.12. The roads are, therefore, in much better physical condition than they were a year ago and better prepared to reap the advantages of more prosperous business conditions.

Stability in rates has no doubt been an important factor in connection with increased earnings. The jurisdiction of the Joint Traffic Association extends to local as well as general traffic, and there has been no serious cutting of rates since the above association assumed control on January 1, 1896. This is advantageous to shippers as well as carriers. Rapid fluctuations in freight rates are injurious to all classes of trade. The merchant, anxious to secure the best shipping terms possible, is in doubt when to purchase, and is as likely as not to make his shipments at the wrong time upon terms that prohibit competition with his more fortunate rival who has

happened to get a better rate. With uniformity in classification and maintenance of freight tariffs all shippers are on an equal footing, and at least one element of doubt is removed from their trade transactions. The Board has repeatedly expressed the opinion that an agreement which tends to diminish unlawful discrimination and preference of rates and to maintain legally authorized and reasonable rates must result in benefit to shippers as well as to the railroad companies. The experience of the Joint Traffic Association thus far justifies this conclusion.

Physically the various roads in this State are, in the main, in good condition. The standard of maintenance is high. Increasing attention is paid to minor details that contribute to the security and comfort of the traveling public. Efficient and intelligent management is everywhere made manifest by the employment of the best known safety appliances, and while rigid economy has necessarily been practiced during the past few years, property on the main lines of travel has not been permitted to deteriorate beyond the limit of safety. Some of the smaller lines have not been able to keep up with the trunk lines in the excellence of their maintenance, but what has been lacking in this respect has generally been made up by extreme caution in operation and the temporary strengthening of roadbed and structures until increased prosperity permits permanent betterments. The Board was compelled in only two instances during the year to direct either suspension of operations or the making of necessary repairs, and in both instances the repairs were promptly made in accordance with the recommendations of the Board's inspector.

Evidence of the careful operation and thorough maintenance that characterizes the roads of New York State is seen in the immunity from accidents to passenger trains. Freight wrecks are more common, but even these are much less frequent or disastrous than in other States with comparatively the same mileage and traffic. Relative to the passenger traffic, it may be stated as an exceedingly interesting fact that of the 179,315,449 passengers carried upon the steam roads of this State last year only three were killed from causes beyond their own control, and this is not an exceptional record. The number killed in 1895 was one and the total number carried 161,792,152.

The Board does not think it too much to say in this connection that the improved conditions responsible for this remarkable record are largely due to its efforts and recommendations. An examination of the annual reports of the Board since the first issue in 1883 will demonstrate that all of the great changes, particularly in the use of safety appliances, were first recommended by the Board of Railroad Commissioners, and the legislative enactments requiring the use of these appliances were the result of the persistent efforts of the Board. It may be urged, and no doubt it is true, that public opinion and official regard for public safety would have produced in time the same results, but the fact remains that the repeated recommendations of this Board led to the more speedy adoption of reforms in railroad management and maintenance, and thus placed the railroads of the Empire State far in advance of those of any other State in the Union in these respects, with the possible exception of Massachusetts.

The most important pending legislative suggestion is in connection with the abolition of grade crossings. With the enactment of such a grade-crossing law as has been recommended by the Board a new era will begin in railroad construction more enduring, less liable to accident in operation, permissive of even faster time than is now made by the Empire State Express, and more economical in maintenance. We have passed the experimental stage in railroading. We can now build for the future with the utmost confidence in ultimate results whether the motive power be steam, electricity or compressed air.

While subject to restriction in the matters of freight and passenger charges and prohibited from discriminating against individuals or against each other, the railroads of this State are now guaranteed, by the operation of section 59 of the Railroad Law, the occupation of their territory without serious competition. The public can not expect any corporation to do business at a loss. It has a right to demand, however, of one obtaining so valuable a franchise from the State as a railroad corporation acquires, that it shall furnish adequate facilities and shall not impose exorbitant tariffs. The law now permits intelligent regulation of these latter conditions and it also wisely declares, and the courts have so interpreted it, that to correct such evils it is no longer necessary or proper to build a parallel and

competing line while the existing line can promptly handle all the business offered it. A business profitable for one road is seldom large enough for two. Duplication brings bad service and deteriorated physical condition. It is invariably followed by the bankruptcy of one or both roads, consolidation and additional and burdensome fixed charges. The objects to be aimed at now by State supervision of railroad properties and corporations are, better service, better maintenance, reduced rates whenever conditions warrant and a guarantee to the roads that in giving these they will be protected in the enjoyment of their franchises to the extent of being permitted to earn operating expenses and fixed charges and make fair returns to their stockholders. There is no need for another trunk line in this State at the present time. Laterals will gradually be extended into unoccupied territory, but this is a field particularly inviting to electric roads, and many such feeders to trunk lines are being built where there is public demand for railroad facilities, but where the traffic does not warrant the construction and maintenance of a steam road.

Summary of Business of the Year.

The business of the year ending June 30, 1896, shows an increase of \$10,891,237.51 in gross earnings from operation over 1895, and an increase of \$9,725,814.12 in operating expenses. Capital stock was increased \$23,485,456.34; funded debt was decreased \$92,962,070.79, and cost of road and equipment was decreased \$73,297,833.19. These changes were mainly due to reorganizations and consequent consolidations and readjustments. The percentage of dividends on capital stock was 2.49 against 2.63 in 1895. The increase in the number of passengers carried was 17,523,297 and in the freight tonnage 10,902,761 tons. On the whole the business was considerably better than in 1895, but so much of the increase in gross earnings from operation was expended in maintenance of track, roadway and equipment that the gain in net earnings from operation was only \$1,165,423.39. The increase in general surplus was \$3,416,477.39. The detailed statements of earnings and expenses of the individual companies from which these aggregate comparisons are made will be found in the second volume of this report.

A comparative summary of the business of 1895 and 1896 is given in the following table:

	For year ending June 30, 1895.	For year ending June 30, 1896.
Gross earnings from operation.....	\$199,198,855 24	\$310,089,592 75
Operating expenses.....	186,887,608 65	146,063,417 77
Net earnings from operation.....	62,860,751 59	64,026,174 98
Income from other sources.....	7,128,186 83	7,182,210 88
*Interest paid and accrued.....	81,110,172 99	82,062,045 51
Taxes.....	7,862,480 98	7,781,389 82
Miscellaneous.....	2,848,708 86	1,890,280 29
*Dividends declared.....	19,079,348 68	18,671,224 53
Surplus.....	147,338 54	3,563,815 98
Capital stock.....	725,066,078 76	748,561,585 10
Funded debt.....	732,363,503 32	639,401,432 58
Other liabilities.....	99,860,452 30	77,868,759 41
Cost of road and equipment.....	1,891,577,448 87	1,818,279,613 68
Percentage of gross income to cost of road and equipment.....	5.08	5.39
Percentage of net income to capital stock.....	2.65	2.48
Percentage of dividends to capital stock.....	2.63	2.49
Miles of road in New York State, main line.....	8,082.19	8,069.66
Tons of freight carried one mile.....	17,849,182,081	19,806,858,488
Average freight earnings per ton per mile (cents).....	0.735	0.702
Average freight expenses per ton per mile (cents).....	0.476	0.471
Average freight profit per ton per mile (cents).....	0.259	0.231
Passengers carried one mile, exclusive of elevated roads.....	3,040,238,561	3,200,357,389
Average earnings per passenger per mile (cents).....	2.23	2.22
Average expenses per passenger per mile (cents).....	1.69	1.64
Average profit per passenger per mile (cents).....	0.54	0.58

The following is a condensed statement of the reports of the surface street roads:

	For year ending June 30, 1895.	For year ending June 30, 1896.
Capital stock.....	\$89,093,580 00	\$107,561,509 07
Funded debt.....	80,180,428 57	95,411,178 57
Unfunded debt.....	12,056,519 74	21,878,921 15
Cost of road and equipment.....	170,647,265 89	208,928,300 98
Gross earnings from operation.....	25,477,227 44	28,808,898 84
Operating expenses.....	16,628,451 85	17,848,759 27
Net earnings from operation.....	8,848,775 59	10,960,139 57
Income from other sources.....	942,980 60	1,428,192 86
Taxes and miscellaneous.....	1,095,472 40	1,249,818 83
Interest.....	2,911,115 51	3,838,270 31
Rentals.....	8,620,245 50	8,838,211 91
Dividends.....	1,988,772 75	3,279,953 95
Surplus for the year.....	171,130 03	479,078 71

Comparison of Quarterly Reports.

Annexed hereto is a comparison of the receipts and expenditures, exclusive of dividends, of the principal roads operating in this State and representing about four-fifths of the total mileage, for the quar-

* Includes respectively interest and dividends paid by lessors from rental received from lessees as follows:

	1895.	1896.
Interest.....	\$8,854,918 87	\$9,040,026 21
Dividends.....	4,136,277 89	4,113,780 53

ters ending September 30, 1895 and 1896. These tables show the net income resulting from operation and the income resulting from receipts and expenditures of all kinds, not including dividends. The September quarter of 1895, compared with the corresponding quarter of 1894 showed an increase in net earnings from operation in favor of 1895 of \$1,775,217.57 and an increase in net income, excluding dividends, of \$1,490,243.11. For the quarter ending September 30, 1896, compared with the corresponding quarter of 1895, the result is a general decrease. In net earnings from operation the decrease is \$1,115,540.61, the decrease in operating expenses is \$721,774.23, leaving a decrease in net earnings from operation of \$393,766.38. Comparing income from all sources and total expenditures, excluding dividends, the result is a decrease in income of \$1,412,138.82, and in total expenditures of \$694,811.72, leaving a decrease in net income of \$717,327.10. For the quarter ending September 30, 1895, one road showed a deficit in net earnings from operation, and three a deficit in net income. For the quarter ending September 30, 1896, one road shows a deficit in net earnings from operation and two roads a deficit in net income.

The following tables give in detail these comparisons:

85

d. Denotes deficit.

	Quarter ending Sept. 30, 1936.	Quarter ending Sept. 30, 1936.
SUMMARY.		
Gross earnings from operation	\$31,504,386 46	\$50,868,844 85
Operating expenses	72,849,681 81	33,127,907 58
Net earnings from operation	<u>\$18,654,703 65</u>	<u>\$18,740,937 27</u>
Decrease in earnings from operation, 1936		<u>\$1,115,540 81</u>
Decrease in operating expenses, 1936		<u>721,774 23</u>
Decrease in net earnings from operation, 1936		<u>\$393,766 98</u>

* Includes all roads in this State leased and operated by the Delaware and Hudson Canal Company.
† Includes all roads in this State leased and operated by the Lehigh Valley Railroad Company.

COMPARISON of quarterly reports of principal roads operating in New York State for the three months ending September 30, 1895, and September 30, 1896.

ROAD.	1895.			1896.		
	Income from all sources.	Total expenses.	Net income.	Income from all sources.	Total expenses.	Net income.
Boston and Albany.....	\$2,490,049 01	\$1,663,249 05	\$826,799 96	\$2,573,947 52	\$1,863,011 01	\$710,936 51
Buffalo, Rochester and Pittsburgh.....	884,219 45	767,013 91	67,205 54	884,405 98	808,796 53	85,609 45
*Delaware and Hudson.....	2,121,311 34	1,863,063 61	258,247 73	2,137,480 98	1,910,475 05	227,005 93
Delaware, Lackawanna and Western.....	2,505,010 37	1,714,498 58	790,511 79	2,461,715 03	1,779,069 59	682,645 44
Elmira and Lake Ontario.....	186,377 45	198,240 61	98,363 16	171,574 51	183,631 09	12,066 58
Elmira and Williamsport.....	7,371,424 01	289,394 87	24,910 86	7,260,715 51	282,575 96	18,140 15
Erie.....	7,371,424 01	7,319,455 25	12,068 70	7,497,845 52	7,025,312 97	472,062 95
Full Brook.....	2,010,369 41	1,647,628 46	362,740 95	2,010,369 41	1,647,628 46	362,740 95
Richmond.....	2,010,369 41	1,647,628 46	362,740 95	2,010,369 41	1,647,628 46	362,740 95
Lehigh Valley.....	1,260,803 49	1,065,125 39	195,678 10	1,263,474 94	1,079,728 86	183,746 08
Long Island.....	1,506,094 87	1,065,125 39	439,971 48	1,485,753 97	1,079,728 86	406,025 11
New Jersey and New York.....	105,125 49	90,643 63	14,481 87	78,070 21	58,907 71	19,162 50
New York Central and Hudson River.....	11,600,505 57	10,876,074 08	1,224,431 54	11,269,899 47	10,223,856 03	1,046,043 44
New York, Chicago and St. Louis.....	1,577,491 96	1,462,650 68	114,841 18	1,847,121 98	1,338,836 31	18,785 67
New York and New England.....	1,643,340 40	1,573,943 63	69,396 77	1,863,134 49	1,495,546 66	132,426 66
New York, New Haven and Hartford.....	8,865,840 95	6,597,267 77	1,788,573 18	8,022,957 80	6,634,152 53	1,388,774 97
New York, Ontario and Western.....	1,507,160 95	583,366 03	189,056 40	1,553,975 00	940,782 00	215,196 00
Ogdensburg and Lake Champlain.....	224,492 95	206,362 19	18,130 76	225,390 65	222,991 72	2,398 93
Schenectady and Rapid Transit.....	264,023 87	214,686 86	79,364 01	219,965 94	174,633 55	45,332 39
Syracuse, Rughamton and New York.....	263,829 59	164,422 49	99,407 10	264,862 19	170,979 23	93,882 96
Syracuse, Geneva and Corning.....	178,199 14	170,635 31	7,563 83	184,998 69	170,932 93	14,065 76
Western New York and Pennsylvania.....	938,668 51	810,269 06	128,399 45	882,979 25	733,976 86	149,002 39
Totals.....	\$52,835,228 48	\$44,885,078 46	\$7,650,150 02	\$51,128,089 66	\$44,190,266 74	\$6,937,822 92

Quarter ending
Sept. 30, 1896.

Quarter ending
Sept. 30, 1895.

Quarter ending
Sept. 30, 1896.

Quarter ending
Sept. 30, 1895.

Quarter ending
Sept. 30, 1896.

Quarter ending
Sept. 30, 1895.

Quarter ending
Sept. 30, 1896.

Quarter ending
Sept. 30, 1895.

Quarter ending
Sept. 30, 1896.

SUMMARY.

Income from all sources.....	\$51,128,089 66
Total expenditures (excluding dividends).....	\$44,190,266 74
Net income.....	\$6,937,822 92
Decrease in income from all sources, 1896.....	\$1,412,138 82
Decrease in total expenditures, 1896.....	694,811 72
Decrease in net income, 1896.....	\$717,327 10

* Includes all roads in this State leased and operated by the Delaware and Hudson Canal Company.
† Includes all roads in this State leased and operated by the Lehigh Valley Railroad Company.

d Denotes deficit.

Legislative Enactments.

The various legislative enactments of 1896 affecting railroads, relating to subjects within the jurisdiction of this Board, will be found fully enumerated and classified under the appropriate headings in this volume.

The more important amendments were the laws requiring railroads to carry bicycles free of charge when accompanied by the owner as a passenger, and the amendment to the mileage book law compelling railroad companies to issue such mileage books at all stations located in cities and incorporated villages, available for use by the purchaser, any member or agents of his firm or any member of his family. The railroad companies assert that ticket-scalpers abuse the law, and several suits are now pending on account of the refusal of agents to give in exchange for mileage book coupons more than one ticket to the same person for his individual use on the same day when the ticket first purchased is for such a distance from the place of starting that it would be impossible for him to make the journey and return in time to use the second ticket. In order to prevent what the railroad companies regard as an evasion of the law, some of the railroads require the applicant for an exchange of coupons to give the name of the person for whom the ticket is obtained, the relation to the holder of the mileage book, and such other particulars as will enable conductors to identify the person presenting the ticket with the description written thereon. It is quite likely an attempt will be made this winter to secure further legislation upon this subject. The purpose of the law was to enable frequent travelers on railroads to obtain substantial commutation rates, and not to encourage such traffic in tickets by unauthorized persons for their own profit as has followed the enactment of the law.

One company has raised constitutional objections to the bicycle law, and test cases are now pending in the courts.

The Legislature passed an amendment to section 46 of the Railroad Law, in relation to the sale of unclaimed freight and baggage, providing that such unclaimed freight and baggage may be deposited with a warehouse company, the railroad company taking a warehouse receipt for the same, and that if not claimed it may be sold at

the expiration of two years, and any surplus moneys arising from such disposition, after paying the charges, are to be deposited with the Comptroller to the credit of the general fund of the State.

The Legislature also passed an act requiring elevated railroads in cities of over 1,200,000 inhabitants to light their cars with gas or electricity and giving such corporations three years in which to make the change.

In the general revision of the tax laws of the State many changes were made applicable to railroads which will be found under the appropriate heading in the appendix to this report.

Provision was made in cases where county authorities have exclusive control of a street, avenue or other property that such authorities may consent to the construction of a street surface railroad on such street, avenue or other property.

References, Complaints and Applications.

The volume of business demanding the attention of the Board is annually increasing. More frequent meetings have become necessary, and cases of unusual importance to the public as well as the railroads are constantly under consideration. Applications under section 59 of the Railroad Law has occupied much of the time of the Board during the past year. Thirty-three applications under this section were considered and disposed of, several of them requiring personal investigation as well as protracted hearings in the localities where the proposed roads were to be built. Several appeals have been taken from the decisions of the Board made under this section, and in all cases, except one, the Board has been sustained by the appellate division of the Supreme Court. This section has now been passed upon by every appellate division in the State, and the legal construction of the section has been pretty well settled. Elsewhere in this volume will be found in full the opinions and decisions of the Board under section 59 and other sections of the Railroad Law, together with the decisions of the courts in cases in which determinations have been reached.

Among the cases considered and disposed of by the Board during the year, may be enumerated: Executive and legislative references, 1; complaints of cities, towns, associations and individuals, 68; applications to remove stations, 1; applications to change

name of station, 1; applications for change of motive power, 8; applications for increase of capital stock, 16; applications for reduction of shares of stock, 1; applications for certificate under section 59 of the Railroad Law, 33; applications for exemption from coupler law, 2; applications for approval of range or heater in car (cooking), 1; change of name of railroad company, 1; change of route, 1; crossings at grade, 2; in relation to mileage books, 28; accident decisions, 13. Number of meetings of the Board, 70. In addition to the above, 677 inquiries covering matters relating to railroad management and operation, were given required attention and investigation, beside a large and constantly increasing volume of general correspondence, all of which has been promptly disposed of. The railroad companies have, as a rule, promptly complied with the recommendations of the Board in the matter of complaints, and no case has arisen during the year in which the Attorney-General has intervened.

Rates.

Very few complaints regarding overcharges in the matter of freight and passenger transportation were made to the Board during the year 1896, except in connection with the non-observance of the Mileage Book Law, which was finally enforced through the efforts of the Board. The few complaints regarding freight transportation were amicably adjusted upon presentation of the complaints by the Board to the railroad companies concerned. Several inquiries have been made to the Board regarding the powers of the Joint Traffic Association, the jurisdiction of which, over the trunk lines of this State, began on January 1, 1896. Owing to the fact that this association has been attacked in the United States courts by the United States district attorney for the southern district of New York, and that the case is still pending on appeal from the Circuit Court decision sustaining the association, no action has been taken regarding these inquiries except to inform the correspondent of the pending suit. The inquiries were mainly relative to the increase in rates on some commodities which followed the formation of the association, but no complaint was presented of discrimination against shippers by any railroad or discrimination on the part of one railroad against another.

Physical Condition of Railroads.

Noticeable improvement has been made upon all the principal lines of the State the past year in track and roadway maintenance, and the suggestions of the Board have invariably been followed by prompt compliance.

The inspector of the Board went over 6.263 miles of steam surface roads during the year and condenses from his reports, to be found in detail in the appendix to this volume, the following general synopsis :

RAILS.

Each road continues to purchase heavier and higher rails. The six-inch one hundred pound rail will probably be the limit for some years to come.

The question of expansion and contraction is receiving more attention than in previous years. Formerly small consideration was given to the variation of temperature due to subsoil, whether filled with water or absolutely free from continued moisture, whether the road was shaded the larger part of the day or subjected to the hot sun, or whether the track extended through long, wet, shaded cuts or along high sandy fills. The rails were usually laid with allowance only for the highest and lowest temperatures.

Many of the companies now consider it important to know the variations upon the different sections of the road, and to make proper allowance for existing conditions. The rail breakage this year has been comparatively small. The "rail section" is also being constantly improved.

CROSS-TIES.

This very important item is receiving close attention on the part of every railroad company. Cedar is no longer used upon the large roads. In fact many of the shorter lines are also using harder and closer grained material. Yellow pine and white oak are being largely employed, and with very good results, particularly upon roads having heavy freight traffic. Yellow pine takes preference under general conditions, in length of life, power to hold spike, and quality for upholding heavy loads. Tie plates upon yellow pine give good results, and are being extensively utilized. The cross tie condition of the various roads this year is very satisfactory compared with previous years.

BALLAST.

The inspection reports show a general desire to economize in the expense of maintenance of way, by keeping roadbeds well ballasted, thereby upholding cross-ties and rail and giving easy drainage. The

importance of good ballast material can not be overrated. Gravel, broken stone and cinders are used in the order mentioned, in this State where heavy traffic prevails.

TRACK DETAILS.

More attention has been paid to bolts, spikes, angle bars, surface and alignment upon the various roads. Joint ties should at all times be sound and positively capable of holding spike. Greater attention is being paid to proper tie spacing. When new rail is laid upon a section immediate spacing of ties should follow. It saves the rail and greatly lessens the chance of danger.

Joint fastenings are also being attended to more carefully, and cracked or broken ones replaced with new without delay. Several roads have joint nuts upon the inside of rail, and report good results. The advantages include better and easier inspection by the track walker, both winter and summer. Much less snow is found between the rails than outside. The nuts being inside the rails, rust on, and are not affected by dropping oil as they are upon the outside. Where joints are composed of six bolts the two end ones may be nutted upon the outside, and the other four upon the inside.

BLOCKING.

This item is one of very great importance, and all roads should have every angle where accident is liable to occur properly blocked.

The accidents in yards are frequent, and each year the record shows loss of life or limb from neglect in this item.

An attempt is made upon some roads to relieve this danger, but nothing positive is accomplished nor will there be, perhaps, until the Legislature requires it.

The roads of many other States are forced to keep up this factor of safety. Wooden blocking is troublesome to keep in place and decays quickly, and consequently when part way out and more or less decayed is more dangerous than when not in use at all. Some kind of metal or fibre should be used noted for its lasting and stable qualities. Wood can be made to answer if constantly watched and kept in proper position and not allowed to remain in after decay begins.

SWITCHES.

While a very general attempt is being made upon all the roads to protect the main track from the chance of siding cars being blown or otherwise forced upon it, not enough care is taken to cover every possible chance. The rule of placing a derailing switch connected with the main track switch so as to be controlled by its action upon every siding or spur which has less than fifteen feet per mile grade downward away from the main track should be adhered to. Many sidings and spurs exist where it is supposed cars do not stand

but to cover the carelessness and disobedience of employes in this respect the rule above referred to should be followed. The expense of placing these switches is very small and the factor of safety very great.

The split point switch is generally in use in this State and gives satisfaction when properly cared for. Great care is given to this important item upon all of the railroads of the State. The crow-bar test is made upon the principal roads daily, and should be upon every road. Some of the roads use the reinforced points and report very good results. The small parts are lessened in number and it is claimed greater safety is had and less trouble experienced in the maintenance. Very few stub switches were found this year.

Facing switches are being eliminated wherever possible. A large number were taken out this year. Single track roads, where business will permit, are making "dead ends" and in this way increasing the factor of safety.

TRANSITION CURVES.

The Inspector has, during the year, made diligent inquiry into the question of transition curves while on the various roads of the State. The reports from all the road departments agree fully that spiraled curves ride easier, make less wear upon the running parts, relieve the tipping over sensation and are much easier and less expensive to maintain. A spiraled curve has no tangent elevation, and the wheels bear continuously and snugly against the outer or elevated rail the entire curve length. There is no shifting or chucking of the trucks laterally. With curves not spiraled, and many exist with large chord deflection angles upon roads maintaining great speed daily, the elevation of rail upon tangents is very disagreeable to passengers and dangerous to the movement and mechanism of the train, for when it is moving at the rate of 60 miles per hour, or 88 feet per second, the short distance before the point of curvature is reached is traversed, ordinarily, in a little more than a second, and when the size and weight of a Wagner or Pullman car is considered, the change of position and movement is extremely disagreeable to those in the car. It may be argued by some that trains do not traverse curves having large chord deflection angles at 60 miles per hour. This is true in theory, but practically trains have to make time, and "slow orders" notwithstanding, sharp curves are traversed, particularly when late, at even greater speed than the schedule. It is suggested that all of the roads of the State have elastic approaches to curves of two degrees chord deflection and over.

A curve that is amply elevated for a speed of say 50 miles per hour or $73\frac{2}{3}$ feet per second, is of course not in proper condition for the passage of a freight train at a speed of 25 miles per hour or $36\frac{2}{3}$ feet per second, for the wheels of a slow train, not having sufficient centrifugal force to keep them up snugly against the

outer rails, slide down the incline until the lower flanges grind against the lower or inner rails. There is in this event torsional strain upon the axles, particularly when cars are heavily laden. The safety of passengers, however, is most important, and curves should at all times be fully and amply maintained for maximum speed and not for average speed because of mixed traffic.

GUARD RAILS ON BRIDGES AND SWITCHES.

These items are not given the attention desired for ample safety by many of the roads of the State. The practice of placing old, light-weight, worn and battered scrap rail partly bolted and spiked upon bridge floors for the purpose of guiding the wheels of derailed trucks should be discontinued. The Inspector's report shows that guard rails upon many of the structures throughout the State are of no practical use, and in the event of derailment would many times increase the danger. Guard rails to be effective upon bridge floors should be strongly spiked and bolted, and the rail itself should be not less than 65 pounds in weight per lineal yard and should be good "seconds" firmly fastened with strong angle bars. Switch guard rails instead of being simply braced once or twice should have an ample number of braces and should be bolted, in addition, to the main rail so as to give the greatest resistance to lateral pressure. Every bridge opening and trestle above 12 feet span should be furnished with guard rails.

WOODEN HOWE TRUSS BRIDGES.

It is satisfactory to note the gradual elimination of wooden bridges. There still remains in the State quite a number of these structures, but assurances are given that another year will see the major portion removed.

TRACK FORCE.

The track force upon many of the roads has been increased very materially this year. Safety to the traveling public largely depends upon the standard of track and roadbed maintenance. One man can not care for three miles of track. It is false economy to reduce the track force below the number required for necessary maintenance. Retrenchment in some other branch would be better. A road allowed to run down in track details is a very expensive one to operate. A few of the shorter roads are far below the average in this respect. Safety demands that enough help be employed to positively keep the tracks and roadbed in at least average condition. Upon a four mile section of single track the Inspector found on one road this year two men. One was flagging, and the other was assisting in the repairs to a trestle. The various duties expected of the track force upon some of the roads is, to say the least, surprising.

SPARE RAIL.

By suggestion of the Board progress is being made in this item. Spare rails are being placed at every mile post. The roads of the State appreciate the economy of keeping material near at hand for repairs and use in case of accident.

INTERLOCKING.

Considerable progress has been accomplished in this direction during the year. Compressed air action is now beyond the experimental stage, and results from its use are very satisfactory. A general desire is manifested on the part of all railroad corporations to provide the latest and most improved safety appliances.

RIGHT OF WAY.

A general effort is noted to level off, remove stumps and generally clear up between fences upon the various lines. Much grading is also being accomplished and shoulders widened out. Fences have received considerable attention this year. Upon the roads where adjacent owners maintain fences it is a noticeable fact, however, that very little attention is paid this important item. The Inspector's reports show lack of attention upon some of the roads where highways cross railroad property upon acute angles. Fences at these points should be kept in strong condition. Wire is used largely upon all of the roads and various patterns are noted. Barbed wire is fast disappearing. Fence posts are being placed closer together. The wire agents insist that 24 feet is frequent enough, but 10 feet will be found the most economical when heavy drifting snow, ice, high winds and frost are considered. The best results have been made with the shorter panels.

PASSENGER STATIONS.

Comfort and convenience is given much greater consideration each year, and new modern buildings with proper sanitary conditions are being erected upon many of the lines. A desire to beautify station grounds with turf, flowers and plants is worthy of mention. The remodeling of old station buildings has been accomplished upon a large number of the roads. Lath and plaster interiors have been superceded by hard wood ceilings and walls, with increased cleanliness and permanency.

WARNING SIGNS AND CATTLE GUARDS.

Highway grade-crossing signs should be of proper legal form, to wit: "Covering the highway," with the words, "Railroad crossing—look out for the cars," painted plainly and with 9-inch

letters. Much more attention should be paid to this item. Cattle guards of the old "open pit" kind are fast disappearing. Slat guards are being used. Steel and iron take preference upon most of the roads. The complaint heard upon many railroads that slat guards do not turn stock satisfactorily is largely due to the meagerness in length along the tracks. Particularly is this true when guards are placed upon acute angles with the tracks. Guards should be half again as long as now constructed, and should always be placed at right angles to the tracks.

Grade Crossings.

The number of persons killed at grade crossings during the year 1896 was 85, an increase of 21 over the previous year; the number injured 127, an increase of 47 as compared with 1895. The record of accidents of this kind during the period of the Board's existence shows an average of 80 killed annually and about 90 injured. Of the total number killed during the past year 65 met death at crossings not protected with gates or flagmen and 20 at protected crossings. Eighty-four were injured at unprotected and 43 at protected crossings.

The Board has, during its existence, persistently urged the enactment of a comprehensive statute for the gradual abolition of all grade crossings in the State under the direction of some constituted authority and the prevention of the establishment of additional grade crossings either in the construction of new railroads or the laying out of new highways. A bill embodying the views of the Board upon this subject was presented to the Legislature of 1895, introduced in both branches, and several hearings were had before the railroad committees. It did not become a law. In the Legislature of 1896, the bill was again introduced, passed the Assembly and the Board was assured would have passed the Senate without opposition but for complications concerning other legislation at the close of the session. The bill will again be presented to the Legislature for its consideration.

Automatic Couplers and Air Brakes.

Notwithstanding the continued financial depression so largely affecting railroad earnings, there were only two applications on the part of the railroads of the State during the past year for exemption from the provision of the Laws of 1893 requiring a certain propor-

tion of freight cars to be annually equipped with automatic couplers and air brakes. These laws contemplate that all freight cars operating in the State will be equipped with automatic couplers by January 1, 1898, and with air brakes by January 1, 1903.

Lighting Cars.

Very little progress was made last year by companies still using oil lamps in passenger coaches in the equipment of such coaches with apparatus for lighting by gas. The Board renews its former recommendations on this subject, and believes that a law should be enacted requiring all passenger coaches, as well as drawing-room and sleeping cars, to be lighted by either gas or electricity. The Board has already referred to the law compelling the lighting of cars of elevated railroad companies in cities of over 1,200,000 by gas or electricity, and it is proper to state in this connection that the Manhattan Elevated Railroad Company of New York city, the only company affected by the law, has begun to make the necessary changes in the lighting of its cars to comply with the law. The Pintch gas system will be used.

Guard Rails and Frogs.

Nine persons were killed and five injured during the past year by their feet being caught in guard rails or frogs, as compared with thirteen killed and fourteen injured during 1895. Although there is no law requiring the blocking of guard rails and frogs the Board has repeatedly and earnestly recommended the use of some suitable device by every railroad in the State, for this purpose. The Legislature of the State of Massachusetts has passed a law compelling railroad companies to use a device to be approved by the railroad commissioners of that State. The passage of a similar law in this State would lead to the adoption of an effective and uniform method of protecting employes and the public from this class of accidents.

Block Signals.

The extension of the block signal system on trunk lines continues, and such system is now in successful operation on the whole or part of nearly all of them. Two rear end collisions occurred

during the past year on lines operating the system, but in neither case was the system responsible. Although the introduction of this method of protection to trains has very materially reduced the number of such collisions, it has also had a tendency to relax the efforts of trainmen and others who have to do with the movement of trains. The collisions above mentioned occurred at stations where the trains had not been properly and promptly protected by the block, and in one instance the accident would no doubt have been averted if, in addition to relying upon the signal, the rear brakeman of the forward train had gone back, as the rule generally requires, to block any approaching train while his train was at a standstill. The train referred to had stopped to cool a hot journal, and the conductor knew that another train was following closely behind him. The block system is as efficient protection as human ingenuity has been enabled to devise, but it should at all times be supplemented with every possible precaution on the part of trainmen.

Fences.

A number of complaints were received during the year from the owners of farm lands along the various railroad lines of the State, regarding insufficient fencing, but in each instance when notified by the Board repairs were promptly made by the companies. In two instances disputes arose as to what constituted a proper fence and in each case the Board insisted upon such protection as the owner of the land desired. This conflict of opinion between the railroad company and the land owner is of frequent occurrence, and emphasizes the recommendations of the Board that the statute relative to fencing should be made more definite in respect to the question as to what constitutes a proper fence.

Fires.

So far as the Board is informed no serious fires occurred along the line of any railroad during the past year as the result of carelessness on the part of railroad employees. The only important complaint came from a resident of Chautauqua county, along the line of the Lake Shore and Michigan Southern railroad. Upon investigation it appeared that the screen in the stack of one of the engines became

broken while on the road and about thirty small fires were started as a consequence, none of which, however, did any serious damage. Although there is no law requiring the use of screens upon locomotives the recommendations of the Board have been very generally observed in this respect, and substantially all of the locomotives of the State are now equipped with a device to prevent the escape of sparks and the setting of fires thereby.

Stations.

The station equipment of the various railroads of the State have been greatly improved during the past year, and the recommendations of the Board that they be provided with suitable accommodations for the traveling public, including toilet facilities and drinking water, have been quite fully observed. The law prohibiting the discontinuance of stations without the consent of the Board has been invoked in two instances, resulting in the continued operation of the stations. Two applications were made for the discontinuance of stations, one of which was granted and the other is still pending.

Accidents.

The total number of persons killed by and upon the railroads of this State during the fiscal year ending June 30, 1896, was 678, against 694 in 1895; the number injured during the same period was 1,607, and in 1895, 1,125. The total number of passengers killed was 18; 3 from causes beyond their own control, and the remainder through their own misconduct or incaution. The number of passengers injured was 196; 115 from causes beyond their own control and 81 by their own misconduct. The number of employes killed was 197; injured, 917; an increase of 16 in the number killed and 287 in the number injured over 1895. The number of persons other than passengers or employes killed was 463, injured 494; in 1895, 496 were killed and 376 injured. The total number of persons killed from causes beyond their own control was 44; injured 288, a decrease in the number killed and an increase of 49 in the number injured, as compared with the preceding year. Of the number killed as the result of their own misconduct, 13 were intoxicated at the time, and 33 persons in the same condition were injured.

Although effort has been made to eliminate from these statistics accidents of a trivial nature, it is nevertheless true that fully one-half of the total number injured were so slightly injured that the accident did not cause serious discomfort or materially interfere with the occupation of the individual. Seven passengers were killed last year and 54 injured getting on or off trains in motion. To prevent this class of accidents, several of the western railroads have adopted the use of gates upon all passenger cars, such gates being flush with the side of the car and extending down to the lower step. These gates are closed at stations before the train starts and are not opened again until after the train stops. The result of their use has been a large diminution in the number of this class of accidents. The Board has heretofore recommended that the passenger coaches in use in the State be equipped with gates, and believes that a gate of proper construction would prevent persons attempting to get on or off trains in motion. No general recommendation upon this subject has been made, but the matter is now under serious consideration.

Of the total number of persons killed nearly one-half were persons other than passengers or employes who were walking on the track at the time of the accident. The majority of these persons were, no doubt, trespassers who were where they had no business to be. The Board has recently urged more rigid enforcement by local authorities of the laws against trespassing on railroads. Special officers of the railroad companies complain that when arrests are made under the law, generally of tramps, the prisoners are simply treated to a lecture by the local magistrates who discharge them upon promise to leave town, when they immediately find their way back to the railroad track and proceed upon their journey. In no other country are the railroad tracks highways for pedestrianism to the extent that they are in the United States. Fully forty per cent. of all the fatal accidents caused by railroads are either the direct result of the non-enforcement of trespass laws or the non-existence of such laws.

The gradual but steady decrease in the number of fatal accidents upon railroads of the State is largely, if not entirely, due to the adoption of life saving devices in railroad operation. Automatic couplers and air brakes, the block system, the improved condition

of roadbed and rolling stock and the more rigid requirements regarding the character of the employes, have all contributed to this result. By the time of the universal use of automatic couplers and air brakes the large number of accidents to employes should be very materially reduced. A satisfactory method of blocking, frogs and switches would still further decrease the accident list.

Accidents at grade crossings are fully treated under the appropriate heading.

The following is a statement of the accidents reported as occurring on street surface roads for the years 1895 and 1896:

OPERATED BY MECHANICAL TRACTION.

	1895.		1896.	
	Killed.	Injured.	Killed.	Injured.
Passengers	5	102	12	177
Employes	4	16	5	34
Others	45	96	42	140
Total	54	214	59	351

OPERATED BY ANIMAL POWER.

	1895.		1896.	
	Killed.	Injured.	Killed.	Injured.
Passengers .....	...	25	1	20
Employes	1	1	2	1
Others	4	7	9	19
Total	5	33	12	40
Grand total	59	247	71	391

Passengers Carried.

The following shows the total number of passengers carried on all the roads of this State for the year ending June 30, 1896, as compared with the preceding year :

	1895.	1896.
Steam roads.....	161,792,152	179,815,449
Elevated roads.....	241,126,487	235,330,148
Street roads.....	561,409,498	672,498,760
Total.....	964,328,137	1,087,144,357

The number of passengers carried on the elevated and street surface roads of New York and Brooklyn during 1895 and 1896 was as follows :

NEW YORK CITY.		
	1895.	1896.
Elevated roads	187,614,985	184,703,686
Street surface roads	286,833,484	357,806,862
Total.....	474,448,419	542,510,498
BROOKLYN.		
Elevated roads	53,251,922	50,626,512
Street surface roads	153,420,579	170,946,251
Total.....	206,672,501	221,572,763
Grand total New York City and Brooklyn.....	681,120,920	764,083,261

Receiverships.

At the time of making the annual report for 1895 seven steam and four street roads were in the hands of receivers. At the date of this report there are eight steam roads in receivers' hands as follows: Allegany and Kinzua, Dansville and Mt. Morris, Kanona and Prattsburg, Lebanon Springs, Philadelphia, Reading and New England, New York and Sea Beach, Ogdensburg and Lake Champlain, and Lima and Honeyoe Falls. The New York and Sea Beach, Ogdensburg and Lake Champlain, and Lima and Honeyoe Falls were added to the list during the year, the latter road having suspended operations. The street roads in receivers' hands are: Syracuse Street and Syracuse Consolidated (about to be reorganized and consolidated), Union Electric of Saratoga Springs, and Watertown and Brownville. The Kings County Elevated has also been added to the list of receiverships.

Park Avenue Improvement.

Legal complications have prevented the completion of the elevation of the tracks in New York city from 110th street to 140th street, known as the Park avenue improvement. It is announced that all obstacles to the completion of this improvement have now been removed, and that cars will be running upon the overhead structure early in 1897. As soon as the tracks now occupied can be abandoned, they will be taken away; strengthening iron pillars will be erected under the superstructure, and the cross streets opened and paved.

Labor Disturbances.

It is extremely gratifying to be able to state that no serious conflict between capital and labor has occurred during the year upon any of the railroads of the State. Wages have been maintained, and upon some of the street surface roads a system of increase based upon term of service has been inaugurated.

Section 59 of the Railroad Law.

The desirability of such amendment to section 59 of the Railroad Law as was suggested by the Board in its last report to the Legislature has been more clearly demonstrated by the experience in dealing with applications under this section during the year. The recommendations heretofore made are therefore renewed as follows:

This section, prior to May 20, 1895, only applied to steam-surface railroads. During the legislative session of last year it was amended by striking out the words, "This section shall not apply to street railroads," thereby, in effect, making it apply to both steam and street railroads. Section 59, as appears from former reports of this Board, was passed upon its repeated recommendation in 1892, and, as the Board is convinced, has been for the best interests of the public. If its scope was to have been extended so as to include street railroads, it should have been amended in several respects. It should have provided that on such applications this Board should be empowered to certify that public convenience and necessity require the construction of the road as proposed in the articles of association, *in whole or in part*, specifying such routes as to it seem either to be or not to be required by public convenience and necessity. The Board should also be empowered, in the event of its finding that public convenience and necessity do not demand the construction of a new line or any part thereof, to compel the construction by an existing company or companies of such addi-

tional routes as it deems are demanded by and will best serve public convenience and necessity. In this connection it would seem that section 90, providing for the extension of existing street railroads, should be made subject to the provisions of section 59.

Capital Stock and Bonds.

The Board again calls the attention of the Legislature to the desirability of a law regulating the issue of stock and bonds by railroad corporations. No stronger argument can be advanced in support of such legislation than the recommendations contained in the last annual report which follow:

The law prohibiting increase of capital stock by a railroad corporation, except upon the written approval of the Board of Railroad Commissioners, was designed, it is to be assumed, to prevent so-called stock watering. It could have had no other purpose, and yet, without accompanying restrictions regarding the original capitalization of a company and the regulation of the issue of bonds it is practically of little or no avail. At the outset a company can make its stock any amount upon which it is willing to pay the incorporation and other taxes, and can issue bonds equal in amount to its stock. If at some future period an increase of stock is desired, this Board requires as a condition precedent to its approval of the increase an investigation as to the financial condition of the company, and evidence as to the purpose for which the money obtained from the increased stock is to be used. In this direction every possible precaution has always been taken by the Board to enforce the law in letter and spirit, but it has no power to exact as a condition to the issuing of the stock that the capital account of the road shall not be charged with an equal amount of bonds, thus increasing the obligations of the company beyond lawful requirements. These securities are supposed to be issued upon the property represented by the expenditure of the money contributed by the bond and stockholders, but when, as is too often the case, instead of receiving any money for the stock it is presented as a bonus with the bonds, or passes through the hands of a convenient construction company without adequate consideration, the spirit of the law is violated and a fraud committed upon the public. Moreover, the stock is thus placed upon speculative basis, demoralizing the market for it and frequently subjecting innocent outsiders to heavy losses. The bane of our railroad systems, as has been repeatedly urged by this Board, is the practice of underhanded stock watering and the excessive issue of bonds. It is fallacious to assert where stock is watered that even in the eyes of the law the stock and bonds of a company represent so much capital actually expended, and it is equally unjust to demand that the capital account of a company shall be only an amount equal to what it would cost

to duplicate the company's property. The public and the investor each have rights to be conserved. The former has the right to demand the service of the company at a reasonable charge, but sufficient to yield a fair return upon the money of the investor and for the risk he takes in projecting a new enterprise, but the latter is not entitled to a double capitalization nor to the protection of the State in a speculation upon future prosperity.

Street Surface Railroads.

The most serious operating difficulty with which the Board has had to deal during the past year has been in connection with street surface railroads, particularly upon lines where, in order to handle heavy Sunday traffic without sufficient car accommodations, the extremely dangerous practice of overcrowding has been permitted.

The Board caused several investigations to be made where it believed these conditions existed, and it was found that not only was operation characterized by an utter disregard of a city ordinance regulating the number of passengers to be permitted upon a car, but also by non-observance of ordinary safety precautions and gross carelessness upon the part of employes. In one instance this overcrowding was found to have been the chief factor in causing an accident which resulted in the killing of two passengers and the injury of several others, and it was learned that this overcrowding was a common practice, particularly on Sunday, on the cars of the company upon the line of which the above accident occurred. A full investigation was made in connection with this accident, the report of which and recommendation relative thereto will be found under the heading of "Accidents" in the appendix. The car in question had a seating capacity of about sixty and could safely carry twenty to twenty-five additional; at the time of the accident there were 133 on board.

It was evident from the above and other investigations that no effort was made by the city authorities either to enforce the ordinance referred to or to prevent cars, with both platforms and running boards so crowded with passengers as to render it difficult for motormen and conductors to perform their duties, from running at a dangerously high rate of speed. In connection with these dangerous methods of operation, recommendations were made by the Board which, it was hoped, would, if observed, largely reduce the number

of accidents upon street surface roads, and some good results were obtained by their enforcement.

Dangerous overcrowding, however, can only be prevented by a rigid legislative enactment providing a severe penalty for permitting a greater number of passengers to ride than can be conveniently seated and stand in the aisles. Passengers should be prohibited from standing upon the front platforms or running boards of open cars, and conductors should be positively instructed to prevent the overcrowding of the rear platforms. Conductors should also be directed to more carefully observe the rule not to start a car until passengers wishing to alight have stepped from the car or those desiring to get on are safely upon the platform. The evil which this recommendation seeks to correct is particularly noticeable in New York city, where dexterous efforts on the part of passengers—the result, no doubt, of constant training in the athletic but dangerous exercise of getting on and off moving cars—alone prevent a large increase in the number of accidents. There is no reason why as courteous treatment should not be accorded the public by street surface railroad employes as is exacted upon the steam surface lines, or why careless and dangerous methods of operation, which would be regarded with horror if practiced upon the latter, should be tolerated upon the former. The traveling public may be to blame for not reporting acts of insolence and discourtesy, but the companies can not plead ignorance of matters pertaining directly to the operation of their cars.

The Board recommends that section 36 of the Railroad Law relative to railroads crossing each other at grade, be amended to make it positively applicable to street surface railroads, and that there be a further provision empowering the Board, in its discretion, to compel railroads having such crossings, to put in an interlocking switch and signal device, the expenses connected therewith to be apportioned by the Board between the railroad companies operating the tracks which cross each other. There are several localities in the State where extremely dangerous crossings of steam and electric railroads exist, notably in the city of Brooklyn, and there seems to be no direct provision giving the Board power to summarily remedy this dangerous condition. Wherever possible the Board has secured the erection of interlocking switch and signal devices, but it has

been the result of agreement between the crossing roads. If the companies had failed to agree the Board would have found it extremely difficult to have compelled compliance with any recommendation it might have made in this connection within a reasonable time.

The agitation regarding the use of fenders has somewhat subsided, resulting largely, no doubt, from the fact that a thoroughly efficient fender does not seem to have been presented. A majority of the railroads are using various kinds of fenders and in many instances saving of life has resulted from such use. In some instances, however, the fender has been the direct cause of injury or death. The street surface railroad companies express a willingness to comply with any law or recommendation that may be made regarding the use of a fender. In the absence of any direction from the Legislature upon this subject, the Board has refrained from recommending any particular fender, but has repeatedly suggested that the general use of fenders should be provided for by legislative enactment.

The use of power brakes on street surface cars operated by mechanical traction is still receiving attention at the hands of the majority of such roads. Although the necessity for such an appliance is conceded, no brake that will sufficiently answer the requirements has been obtained. Electric and air brakes have been experimented with and abandoned, other experiments are still progressing and street railroad managers predict that in the near future all mechanically operated street cars in large cities will be equipped with power brakes.

The Board renews its recommendation to the Legislature that a law be passed requiring all street surface cars in the State to be heated during the winter months. There is no longer any excuse for electric cars not being heated. There are also numerous devices upon the market for the heating of cable and other cars and many roads are properly equipped for this purpose. Legislation that would make the heating of cars compulsory would prevent much annoyance and inconvenience to the traveling public.

The Board, in addition, renews its recommendations of 1893, 1894 and 1895, and urges the Legislature to consider the propriety of embodying them in the Railroad Law.

Street Railroad Statistics.

The following table gives a comparative statement of the receipts and expenditures per passenger and the cost of operation per car mile on the principal street surface railroads of this State. The table presents the total number of passengers carried, the total car mileage, the receipts from operation per passenger, the cost of operation per passenger, the receipts from all sources per passenger and the total expenditure including all fixed charges per passenger. It also shows the expenses of operation per car mile excluding fixed charges and the expenses of the same operation including fixed charges. In making these various calculations the division of receipts as reported by the various railroad companies has been taken and in the case of companies paying a dividend on the stock of a lessor company as part of rental, this payment has been included in the calculation under fixed charges.

Street Surface Railway Receipts and Expenditures, per passenger, and cost of operation per car mile.

(OPERATED WHOLLY, OR IN PART, BY MECHANICAL TRACTION.)

NAME OF ROAD.	Number of passengers carried.	Total car mileage.	BASED UPON GROSS EARNINGS FROM OPERATION AND OPERATING EXPENSES.		BASED UPON RECEIPTS FROM ALL SOURCES, AND TOTAL EXPENSES INCLUDING FIXED CHARGES.			Cost of operation per car mile.	Total expenses, including fixed charges per car mile.
			Average earnings per passenger.	Average cost of operation per passenger.	Average receipts per passenger.	Average expenses per passenger.			
							Cents.		
Albany.....	9,511,556	2,229,977	.0635	.0890	.6570	.0446	15.35	19.00	
(a) Atlantic Avenue.....	14,473,770	3,575,482	.0432	.0818	.0522	.0473	12.89	19.12	
Binghamton.....	3,361,622	839,500	.0397	.0229	.0402	.0337	9.26	13.61	
Brooklyn City and Newtown.....	13,463,766	2,332,536	.0409	.0260	.0420	.0346	14.44	19.57	
Brooklyn Heights.....	106,696,806	21,500,746	.0400	.0234	.0422	.0426	16.96	22.50	
Brooklyn, Queens County and Suburban.....	15,440,760	3,393,491	.0443	.0292	.0455	.0516	13.31	22.50	
Buffalo.....	39,577,328	6,262,500	.0348	.0171	.0352	.0277	10.87	17.52	
Coney Island and Brooklyn.....	8,899,196	2,093,044	.0552	.0840	.0357	.0435	10.87	13.06	
Croton and Buffalo.....	13,023,454	2,717,063	.0263	.0113	.0315	.0244	10.66	15.09	
Kingston City.....	1,028,451	2,137,460	.0340	.0230	.0418	.0404	16.71	22.26	
(b) Metropolitan Street.....	174,415,247	28,511,987	.0418	.0230	.0511	.0372	17.06	27.63	
(c) Nassau.....	14,302,463	4,534,233	.0500	.0307	.0613	.0474	9.51	14.67	
Newburgh Electric.....	1,640,000	413,739	.0576	.0853	.0630	.0633	13.53	21.57	
Rochester.....	17,347,940	5,010,933	.0507	.0390	.0519	.0510	11.45	17.64	
(d) Syracuse Consolidated.....	3,848,964	1,266,923	.0496	.0269	.....	.....	.....	.....
Syracuse Street.....	5,908,979	1,687,463	.0485	.0248	.0439	.0355	9.39	12.43	
(b) Third Avenue.....	62,500,000	12,653,310	.0420	.0242	.0437	.0297	11.94	14.69	
Troy City.....	10,077,908	2,306,734	.0512	.0315	.0516	.0396	11.42	17.26	
Union.....	9,722,361	2,458,963	.0502	.0315	.0505	.0443	12.25	17.34	
Utica Belt Line.....	3,515,244	527,095	.0470	.0246	.0476	.0436	13.29	18.57	
Steinway.....	6,661,285	1,850,635	.0495	.0250	.0539	.0461	10.33	16.29	
OPERATED BY ANIMAL POWER.									
Central Croton, N. Y.....	14,329,756	1,915,044	.0390	.0277	.0394	.0350	20.80	26.02	
Dry Dock, East Broadway and Battery.....	18,442,326	2,449,868	.0403	.0305	.0410	.0375	23.00	26.25	
(c) New York and Harlem, Fourth Avenue, N. Y.....	16,897,212	3,219,183	.0500	.0334	.0504	.0377	18.06	19.79	
(f) Thirty-Fourth Street, N. Y.....	9,865,953	775,516	.0296	.0132	.0297	.0261	16.35	31.60	

(a) Includes nine months operation. Remaining three months in Nassau report.

(b) Includes all lines operated by both mechanical and animal power.

(c) Includes three months of Atlantic Avenue system.

(d) In hands of receiver, made no payment on account of interest on bonds.

(e) Made no payments on account of funded debt.

(f) Net income paid direct to Metropolitan Street Railway Company as rental of tracks, amount included in fixed charges.

Motive Power Experiments in New York City.

The underground trolley system of electric propulsion for street surface roads has now had a year's trial on the Lenox avenue line of the Metropolitan Street Railway Company in New York city, and although not quite as satisfactory or economical as the overhead trolley is regarded as preferable to the cable in so many respects that its use is to be extended to other longitudinal routes of this company. In view of this fact it is safe to predict that there will be no more cable construction in New York city.

Some very satisfactory experiments have been made recently with compressed air as a motive power. Three Hardy compressed air cars, manufactured at Rome, in this State, have been in operation on the 125th street line of the Third Avenue Company since August 1st last. The cars are run across 125th street from the Fort Lee ferry to the East river, a distance of a little over two miles. They are charged every three round trips, thus giving them a run of about 13 miles. The heaviest grade is about eight per cent. near Fourth avenue. The compressor plant is located at the car barn. An 80-horse power engine compresses the air into a battery of storage tubes to 2,000 pounds pressure per square inch and the air is carried through a pipe to a point in the barn where the car is charged, about two minutes being required for the operation. Two cars are constantly in service. The third stands at the barn ready to take the place of a car requiring to be recharged. Each car holds 52 cubic feet of air under a pressure of 2,000 pounds. The working air pressure as applied to the motor averages about 130 pounds. During the December snow storms the cable cars were blocked on the 125th street line while the air cars had no difficulty in making time when not interfered with by the other cars. It is claimed by the inventor of this system that the cost of operation per car mile will be less than by the overhead trolley system. The limited operation on 125th street, however, does not furnish sufficient data for accurate conclusions.

The Metropolitan Street Railway Company is experimenting with the Hoadley compressed air system on its Lenox avenue line between 110th and 146th streets with apparent success. The chief difference between these two compressed air systems is in the method of applying the power. The Hardy motor has cylinders

and piston acting directly upon the axle as in the case of a steam locomotive. In the Hoadley motor the power is applied by gearing.

The Manhattan Elevated Company intends making experiments with the Hardy motor. The motor company is now building an engine at Rome about the size of the engines at present in use on the elevated. It will be operated on the Sixth avenue line, between Rector street and 58th street, the compressor plant being located at Rector street. The engine will be constructed to carry sufficient air to operate a train of five cars 13 miles without recharging. It is expected the engine will be ready for service some time in February.

The elevated company has also been trying electricity on its 34th street branch from Third avenue to the 34th street ferry. The motor was built upon the trucks of a dummy engine. A third rail, which conducts the current from the power house to the motor, has been placed on insulated chairs fastened to the guard timbers outside the track rail and standing about ten inches above the track rails. The connection is made by two steel shoes which reach from the lower side of the motor and clasp the charged rail. When more electricity is produced than is used by the motors it is stored in accumulators located at the ferry end of the route. This motor has been successfully working since October 5. The average power, including heat and light for the cars, is 45 amperes; voltage 450. No difficulty in operation was experienced during snow storms, and mechanically the motor has done all the work required of it. Regarding its economical efficiency, the line is too short and the traffic too limited to admit of comparisons that would be of much value.

Summary of Recommendations to the Legislature.

In conclusion the Board submits the following summary of recommendations to the Legislature:

An amendment to section 36 of the Railroad Law, empowering the Board to summarily compel steam and street railroads intersecting at grade to erect interlocking switch and signal devices.

An amendment to section 59 of the Railroad Law relative to applications of street surface railroads for a certificate of public convenience and necessity, empowering the Board to certify to the

whole or a part of the route proposed by a new corporation, or to compel an existing corporation to build such additional lines as are deemed to be required by public convenience and necessity.

An amendment to section 90 of the Railroad Law, subjecting extensions to the provisions of section 59.

An amendment to the Stock Corporation Law further restricting the issue of stock and bonds by railroad corporations.

An amendment to the Railroad Law prohibiting grade crossings and providing for the abolition of those already established.

An amendment to the Railroad Law compelling all passenger and drawing room or sleeping cars on steam surface railroads, and all passenger cars on elevated railroads to be lighted by gas or electricity.

An amendment to the Railroad Law compelling the blocking of guard rails and frogs with some suitable device.

An amendment to the Railroad Law more clearly defining the character of fences to be erected by railroad companies between railroad and private property.

An amendment to the Railroad Law compelling the use of fenders on street surface cable or electric cars, and generally regulating the operation of such roads as to speed, use of air or power brakes and other safety appliances. (See report of Board of Railroad Commissioners for 1894, page xxxv.)

An amendment to the Railroad Law limiting the number of passengers that may be carried on the open cars of street surface railroads.

All of which is respectfully submitted.

SAMUEL A. BEARDSLEY,
ALFRED C. CHAPIN,

Commissioners.

Commissioner Rickard died before the annual report was completed.

Ten Year Comparisons.

The following series of comparative tables, the figures of which are taken from the annual reports made by the Board for the years 1886 to 1897 inclusive, show at a glance the progress of steam railroad enterprise in this State during the past ten years. The apparently abnormal increase in the figures of 1892 and 1893 was caused by the inclusion of the Philadelphia and Reading Railroad, then operating lines in this State, and which was required to report the operations of its entire system. For the years 1894, 1895 and 1896 the figures of the Philadelphia and Reading Railroad are eliminated.

TABLE SHOWING TOTAL ASSETS.

YEARS.	Cost of road and equipment.	Other permanent investments.	Cash and current assets.	Total assets.
1887.....	\$1,180,585,382	\$74,480,407	\$43,452,429	\$1,298,518,218
1888.....	1,208,848,443	58,088,256	40,541,290	1,307,477,989
1889.....	1,214,531,086	61,696,220	44,605,307	1,320,829,616
1890.....	1,225,365,126	60,187,811	48,085,389	1,333,558,326
1891.....	1,270,265,163	82,185,200	51,928,120	1,404,389,483
1892.....	1,398,880,501	191,938,212	69,284,942	1,660,053,655
1893.....	1,448,473,167	201,216,555	73,544,016	1,723,233,738
1894.....	1,411,249,576	143,269,013	66,158,089	1,620,673,628
1895.....	1,391,577,447	147,439,172	70,094,041	1,609,110,660
1896.....	1,318,279,614	180,390,049	67,490,657	1,516,160,320

TABLE SHOWING TOTAL LIABILITIES.

YEARS.	Capital stock.	Funded debt.	Unfunded debt.	Total liabilities.
1887.....	\$631,708,057	\$580,080,831	\$57,712,350	\$1,269,501,238
1888.....	632,218,711	585,672,852	54,827,361	1,272,718,924
1889.....	635,698,973	585,495,355	64,689,626	1,275,883,954
1890.....	631,676,009	608,413,909	43,598,991	1,283,688,908
1891.....	646,712,352	638,450,067	64,035,665	1,344,198,085
1892.....	699,869,898	808,934,865	89,750,526	1,598,575,289
1893.....	715,520,890	832,378,464	110,776,968	1,658,676,312
1894.....	737,878,683	738,627,525	85,418,796	1,560,925,014
1895.....	725,066,079	732,363,503	99,390,452	1,556,790,034
1896.....	748,561,535	689,401,432	77,968,769	1,465,921,727

TABLE SHOWING SURPLUS OF PROPERTY ACCOUNT.

YEARS.	Total assets.	Total liabilities.	Surplus.
1887.....	\$1,298,518,218	\$1,269,501,238	\$29,016,980
1888.....	1,307,477,989	1,272,718,924	34,759,065
1889.....	1,320,829,616	1,275,883,954	44,945,662
1890.....	1,333,558,326	1,288,688,908	44,869,418
1891.....	1,404,389,483	1,344,198,085	60,191,398
1892.....	1,660,053,655	1,598,575,289	61,478,366
1893.....	1,723,233,738	1,658,676,312	64,557,426
1894.....	1,620,673,628	1,556,925,014	63,748,614
1895.....	1,609,110,660	1,556,790,034	52,320,626
1896.....	1,516,160,320	1,465,321,727	50,838,593

TABLE SHOWING MAIN LINE AND TRACK MILEAGE.

YEARS.	Total miles of road, main line, operated.	Total miles of road, main line, in State of New York.	*Miles of track operated.	*Miles of track in State of New York.
1887.....	11,996	7,363	19,586	12,248
1888.....	12,310	7,438	20,257	12,407
1889.....	12,406	7,467	20,626	12,645
1890.....	12,611	7,590	21,125	12,908
1891.....	12,947	7,651	21,906	13,215
1892.....	14,560	7,770	25,992	13,806
1893.....	15,092	7,888	27,343	13,854
1894.....	14,969	7,992	26,673	14,182
1895.....	15,061	8,032	27,145	14,232
1896.....	15,238	8,070	27,483	14,401

*Includes double track, sidings and switches.

TABLE SHOWING LOCOMOTIVE AND CAR EQUIPMENT.

This year shows a loss in locomotive equipment of 167, and in passenger car equipment of 103. The increase in the number of freight cars was 3,530 during the year and in the number of other cars 71. The figures for 1892 and 1893, it must be remembered, included the Reading system entire, part of which is eliminated for the years 1894, 1895 and 1896.

YEARS.	Locomotives.	Passenger cars.	Baggage, mail and express cars.	*Freight cars.
1887.....	4,142	3,751	1,067	155,746
1888.....	4,377	3,950	1,205	164,550
1889.....	4,523	4,165	1,144	166,108
1890.....	4,640	4,188	1,212	173,404
1891.....	4,936	4,348	1,237	183,067
1892.....	6,548	5,284	1,651	275,863
1893.....	6,875	6,065	1,575	271,935
1894.....	6,453	6,104	1,544	247,347
1895.....	6,431	6,084	1,497	241,844
1896.....	6,264	5,981	1,568	245,374

*Including box and platform cars.

TABLE SHOWING AVERAGE NUMBER OF EMPLOYEES.

Increased expenditures on account of maintenance and the considerable increase in freight and passenger traffic during the year is the cause for an increase of 12,585 in the average number of employes.

YEARS.	Number of employes.	YEARS.	Number of employes.
1887.....	102,634	1892.....	153,456
1888.....	106,800	1893.....	163,289
1889.....	109,200	1894.....	140,733
1890.....	112,044	1895.....	134,402
1891.....	123,196	1896.....	146,987

TABLE SHOWING OPERATING EXPENSES AND NET EARNINGS FROM OPERATION.

YEARS.	Gross earnings from operations.	Operating expenses.	Net earnings from operation.	Percentage of operating expenses to gross earnings from operation.
1887.....	\$143,724,490 62	\$92,439,974 60	\$51,284,516 02	64.42
1888.....	152,122,705 78	101,005,061 79	50,517,643 94	66.79
1889.....	153,537,208 19	101,729,493 88	51,807,714 31	66.26
1890.....	163,974,888 87	107,950,410 80	56,015,428 07	65.84
1891.....	169,012,504 22	118,528,346 87	55,484,157 35	67.17
1892.....	218,998,745 98	148,364,445 67	70,634,300 31	66.90
1893.....	234,354,615 20	157,128,964 48	77,225,650 72	67.05
1894.....	197,957,815 47	137,040,574 21	60,916,741 26	69.23
1895.....	199,198,355 24	136,837,608 65	62,860,751 59	68.44
1896.....	210,089,592 75	146,063,417 77	64,026,174 98	69.52

TABLE SHOWING INCOME FROM ALL SOURCES.

YEARS.	Gross passenger earnings.	Gross freight earnings.	Income from other sources.	Gross income.
1887.....	\$47,472,504 22	\$96,251,986 40	\$5,453,671 81	\$149,178,161 93
1888.....	50,584,932 75	101,537,772 98	5,732,752 57	157,855,458 30
1889.....	52,758,297 11	100,778,911 08	4,965,649 49	158,522,857 68
1890.....	53,678,359 80	110,296,474 07	5,172,928 60	169,147,762 47
1891.....	57,195,893 53	111,816,610 69	4,965,163 92	173,977,668 14
1892.....	65,340,904 11	148,657,841 87	6,375,595 64	220,374,341 62
1893.....	71,690,353 47	162,664,261 73	7,243,112 88	241,597,728 08
1894.....	72,498,321 68	125,458,993 79	7,584,135 38	205,541,450 85
1895.....	67,977,890 77	131,220,464 47	7,128,186 88	206,326,542 07
1896.....	71,061,846 43	188,997,746 32	7,132,210 88	217,221,803 63

TABLE SHOWING GROSS EXPENDITURES AND NET SURPLUS OR DEFICIT.

YEARS.	Operating Expenses.	Interest, taxes, rentals and miscellaneous.	Dividends and other payments from net income.	Gross expenditures.	Gross income.	Net surplus or deficit.	Percentage of gross expenditures to gross income.
1887.....	\$82,439,974 60	\$38,230,244 19	\$10,223,530 54	\$140,898,758 33	\$149,178,161 93	\$8,284,403 60	94 41
1888.....	101,605,061 79	40,714,656 05	10,173,537 88	152,493,255 72	157,555,458 30	5,062,202 58	96 80
1889.....	101,729,493 88	41,181,272 83	11,067,280 99	153,978,086 70	158,922,857 68	4,944,800 98	97 07
1890.....	107,959,410 80	42,480,451 05	14,375,656 20	164,795,518 05	169,147,762 47	4,352,244 42	97 41
1891.....	113,628,246 87	45,133,458 77	12,452,678 82	171,114,484 46	173,977,698 14	2,863,183 68	98 35
1892.....	143,364,445 87	59,057,073 79	15,651,658 07	217,973,177 53	220,574,841 62	2,601,664 09	98 91
1893.....	157,128,964 48	66,092,667 96	14,717,948 11	237,939,480 55	241,597,728 08	3,658,247 53	98 48
1894.....	137,040,574 21	54,780,455 16	15,738,075 57	207,559,104 94	208,541,450 85	981,345 91	100 98
1895.....	136,337,803 45	54,893,209 08	14,948,899 79	206,179,203 53	208,526,542 07	2,347,338 54	99 92
1896.....	146,063,417 77	52,934,561 80	14,660,008 13	213,657,987 70	217,221,803 63	3,563,815 93	98 36

d. Deficit.

TABLE SHOWING DISTRIBUTION OF OPERATING EXPENSES PER MILE OF ROAD OPERATED.

YEARS.	Maintenance of ways and structure.	Maintenance of equipment.	Conducting transportation.	General expenses.	Total cost of operation.
1887	\$1,008 82	\$1,356 55	\$3,840 63	\$970 00	\$7,776 00
1888	1,736 68	1,495 20	4,025 00	996 20	8,258 77
1889	1,639 00	1,419 09	4,068 22	1,072 50	8,199 41
1890	1,682 93	1,543 08	4,258 32	1,081 10	8,560 43
1891	1,638 63	1,433 25	4,532 49	1,144 18	8,768 55
1892	1,807 50	1,609 57	5,058 41	1,370 75	9,846 23
1893	1,882 65	1,715 52	5,404 38	1,409 05	10,411 61
1894	1,517 96	1,481 33	4,811 55	1,326 09	9,136 93
1895	1,466 61	1,468 57	5,792 07	*325 09	9,052 34
1896	1,673 02	1,755 43	5,820 69	836 32	9,585 46

* Reduction caused by transfer of accounts from "General Expense" to "Conducting Transportation."

TABLE SHOWING DIVIDENDS PAID AND PERCENTAGE OF DIVIDENDS TO CAPITAL STOCK.

YEARS.	Capital stock.	Net incomes.	Dividends paid from net income.	Dividends paid lessor Co.'s as part of rental.	Total dividends paid.	Percentage of dividends to capital stock.
1887 ...	\$631,708,057 20	\$18,507,943 14	\$10,207,885 50	\$3,614,988 60	\$13,822,874 10	02.19
1888 ...	632,218,711 01	15,585,740 46	10,169,880 25	3,621,721 42	13,791,601 67	02.18
1889 ...	625,608,972 69	15,612,090 97	11,059,789 99	3,557,545 00	14,617,334 99	02.34
1890 ...	631,676,007 69	18,757,900 62	11,652,159 86	3,597,892 90	15,250,052 76	02.41
1891 ...	646,712,352 69	15,315,862 50	12,358,240 20	3,831,616 78	16,189,856 98	02.50
1892 ...	699,889,898 48	17,952,822 16	13,720,302 10	4,291,046 46	18,011,348 56	02.72
1893 ...	715,520,890 35	18,376,095 64	14,662,992 60	4,132,469 69	18,795,462 29	02.61
1894 ...	737,878,692 77	13,720,421 48	15,793,538 95	4,199,470 11	19,793,009 01	02.69
1895 ...	725,066,078 76	15,095,729 33	14,943,065 79	4,136,277 89	19,079,343 68	02.63
1896 ...	148,551,535 10	18,223,824 06	14,557,454 09	4,113,780 53	18,671,234 53	02.49

TABLE SHOWING PASSENGER AND FREIGHT TRAIN MILEAGE, NUMBER OF PASSENGERS AND TONS OF FREIGHT CARRIED AND NET EARNINGS PER MILE OF ROAD OPERATED.

YEARS.	PASSENGER train mileage.	FREIGHT train mileage.	All other train mileage.	Number of passengers carried.	Tons of freight carried.	PASSENGER profit per mile of road operated.	FREIGHT PROFIT per mile of road operated.	GROSS EARNINGS from operation per mile of road operated.	OPERATING EX- PENSES PER mile of road operated.	Net earnings per mile of road operated.
1887.....	39,126,685	58,848,570	25,778,009	94,272,116	94,536,620	\$1,445 09	\$2,868 94	\$12,060 03	\$7,766 00	\$4,314 03
1888.....	43,126,576	63,419,073	28,127,709	105,416,032	100,031,733	1,309 56	2,794 19	12,357 52	8,253 77	4,103 75
1889.....	43,991,535	61,526,331	24,103,020	111,589,717	98,757,536	1,490 69	2,695 01	12,375 12	8,198 41	4,176 71
1890.....	45,217,173	66,805,619	25,874,179	115,822,617	110,653,903	1,459 09	2,662 54	13,002 06	8,560 43	4,441 63
1891.....	48,698,906	68,447,897	25,560,816	125,911,800	114,252,384	1,525 38	2,760 03	13,053 96	8,768 55	4,285 41
1892.....	57,906,712	89,406,887	29,894,246	153,142,090	156,164,437	1,362 87	2,488 27	14,697 37	9,846 23	4,851 14
1893.....	65,922,703	95,914,315	42,802,160	170,435,583	167,341,276	1,266 99	2,850 17	15,528 69	10,411 61	5,117 08
1894.....	63,555,939	91,291,396	30,543,005	162,957,535	156,481,679	1,557 23	2,504 28	13,198 48	9,136 93	4,061 55
1895.....	62,420,337	80,958,966	32,697,689	161,065,990	158,684,811	1,100 23	3,073 50	13,226 07	9,052 34	4,173 73
1896.....	64,494,568	84,143,407	35,244,330	179,315,449	149,587,572	1,204 49	2,997 25	13,757 21	9,585 47	4,201 74

TABLE SHOWING RESULTS OF PASSENGER TRAFFIC PER PASSENGER PER MILE AND OF FREIGHT TRAFFIC PER TON PER MILE WITH PERCENTAGES.

YEARS.	PASSENGER EARNINGS AND EXPENSES, PER PASSENGER, PER MILE.			FREIGHT EARNINGS AND EXPENSES, PER TON, PER MILE.		
	Earnings (cents).	Expenses (cents).	Profit (cents).	Earnings (cents).	Expenses (cents).	Profit (cents).
	Percentage of freight expenses to freight earnings.	Percentage of passenger expenses to passenger earnings.	Percentage of freight expenses to freight earnings.	Percentage of passenger expenses to passenger earnings.	Percentage of freight expenses to freight earnings.	Percentage of passenger expenses to passenger earnings.
1887.....	2.36	1.51	.85	.7958	.5138	.2820
1888.....	2.30	1.57	.73	.7975	.5274	.2701
1889.....	2.29	1.49	.80	.7819	.5256	.2563
1890.....	2.28	1.48	.80	.7705	.5104	.2601
1891.....	2.22	1.45	.77	.7670	.5219	.2451
1892.....	2.21	1.54	.67	.7640	.5030	.2610
1893.....	2.18	1.60	.58	.7770	.5009	.2770
1894.....	1.93	1.31	.62	.7660	.5370	.2290
1895.....	2.24	1.69	.55	.7850	.4760	.2590
1896.....	2.23	1.65	.57	.7018	.4712	.2306

APPENDIX.

Decisions and Recommendations:

Executive and legislative references.
Complaints of cities, towns, etc.
Stations and station buildings.
Applications for change of motive power.
Applications for increase of capital stock.
Applications for railroad construction and extension (section 59 of Railroad Law).
Applications for exemption under the provisions of chap. 543, Laws of 1893 (Brake Act).
Applications for approval of cooking stoves in dining cars, etc.
Application for reduction of number of shares of capital stock.
Inquiries.
Crossings at grade.
Change of name.
Unfinished business.
Accidents.
Accident inquiries.
Length of railroads.
Inspections.
Minutes of Board.
Companies formed.
Companies reorganized.
Companies consolidated.
Extension of routes.
Increase of capital stock.
Leased roads.
Reduction of number of directors.
Increase of number of directors.
Surrender of capital stock.
Certificate of merger.
Reduction of number of shares.
Certificates under section 59 of the Railroad Law, filed in Secretary of State's office.
Enactments of year.
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Alphabetical list of all companies formed under laws of this State.
Rules of procedure.
Proposed Grade Crossing bill.

LAWS.

"Condemnation Law."
"General Corporation Law."
"Stock Corporation Law."
"Railroad Law."
General acts relating to railroads not embraced in the above laws.
Extracts from Code of Criminal Procedure.
Extracts from Penal Code.
Rapid Transit Act (Laws of 1891 as amended).
Interstate Commerce Act (as amended).

DECISIONS AND RECOMMENDATIONS.

Executive and Legislative References.

I.

RELATIVE TO AN ACT EXTENDING THE TIME FOR THE LITTLE FALLS,
VAN HORNELLVILLE AND OTSEGO LAKE NARROW GAUGE RAIL-
ROAD COMPANY TO BEGIN THE CONSTRUCTION OF ITS ROAD.

ALBANY, N. Y., *May* 11, 1896.

To the Governor of the State of New York:

The Board of Railroad Commissioners herewith respectfully returns Assembly bill (executive No. 153), entitled "An act to extend the time of the Little Falls, Van Hornellsville and Otsego Lake Narrow Gauge Railroad Company, to begin the construction of its road, and expend thereon ten per centum of the amount of its capital, and finish and put the same in operation."

This company was duly incorporated by filing its articles in the office of the Secretary of State on June 13, 1889. It has annually reported to this Board since that time, and its last report, as of June 30, 1895, shows that it has issued 230 shares of stock, upon which ten per centum, or \$2,300 had been paid in. It is further stated in said report that no progress has been made in the construction of the road, owing to failure to obtain the amount of money required therefor.

The purpose of this bill is clearly set forth in its title, and the time of extension provided therein in which to begin the construction of its road is two years, the present charter expiring by limitation on the 13th instant.

The Board knows of no reason why this bill should not become a law.

COMPLAINTS

OF

CITIES, TOWNS, ASSOCIATIONS, INDIVIDUALS, ETC.

I.

IN THE MATTER OF THE COMPLAINT OF EDWARD H. BOUGHTON
AGAINST THE FITCHBURG RAILROAD COMPANY, RELATIVE TO
ALLEGED DANGEROUS CROSSING AT THE JOHNSONVILLE DEPOT.

August 17, 1895.

This complaint was filed June 19, 1895, and alleged that the crossing on the Fitchburg Railroad at the Johnsonville depot was not properly protected. An inspection of the locality was made by F. K. Baxter, Inspector of the Board, who recommended that an electric gong be erected and maintained by the railroad company at the point in question, which recommendation was made the recommendation of the Board. On August 17, a communication was received from H. S. Marcy, president of the Fitchburg Railroad Company, informing the Board that arrangements had been made to protect the crossing, and the case was closed.

II.

IN THE MATTER OF THE COMPLAINT OF JOHN N. STODDARD AND
SAMUEL H. STODDARD AGAINST THE NEW YORK CENTRAL AND
HUDSON RIVER RAILROAD COMPANY (R. W. & O., DIVISION), RELATIVE TO FARM CROSSINGS AND CATTLE PASS IN THE TOWN OF CAMDEN, ONEIDA COUNTY.

October 11, 1895.

This complaint was filed August 15, 1895, by A. C. Woodruff, attorney for John N. and Samuel H. Stoddard. It alleged that four farm crossings and a cattle pass on section 53 of the Rome, Watertown and Ogdensburg Railroad in the town of Camden,

Oneida county, were not maintained and protected in accordance with an agreement between the railroad company and Israel Stoddard, made at the time the railroad was constructed. On October 11, Chauncey M. Depew, president of the New York Central and Hudson River Railroad Company, informed the Board that an amicable understanding would be reached between the company and the complainants regarding the matters complained of. A copy of this letter was forwarded to the complainants, and no further application being made to the Board in relation to the matter the case was ordered closed.

III.

IN THE MATTER OF THE COMPLAINT OF E. L. FULLER AGAINST THE
GENESEE AND WYOMING VALLEY RAILROAD COMPANY, RELATIVE
TO PROPOSED REMOVAL OF BRIDGE ON THE BATAVIA ROAD, ONE
MILE EAST OF GREIGSVILLE, LIVINGSTON COUNTY.

October 15, 1895.

This complaint was filed September 26, 1895, by E. L. Fuller, president of the Retsof Mining Company at Retsof, Livingston County, N. Y., who protested against the proposed removal of a bridge making an overhead crossing over the Genesee and Wyoming Valley Railroad, near the village of Greigsville. The complaint was forwarded to the company, and on October 26, 1895, answer was made by Reon Barnes, president, who stated and furnished documentary evidence in support of his assertion, that the removal of the bridge was upon the petition of a large number of residents of the locality and by order of the three highway commissioners of the town of York, in which said village is located. The reason for the presentation of the petition of the residents and the action of the highway commissioners was the fact that the bridge was almost impassable for heavy loads by reason of its steep approaches and height, rising from a plain on both sides to a height of 25 feet and 5 inches over the railroad track. The papers were fully considered by the Board, and on October 15, 1895, a communication was directed to be sent to the complainant and to the president of the railroad company, dismissing the complaint on the ground that the action of the highway commissioners in ordering the removal of the bridge precluded any interference on the part of the Board so long as public safety was not menaced by said removal.

IV.

IN THE MATTER OF THE COMPLAINT OF W. J. BROOKS AGAINST THE
PHILADELPHIA, READING AND NEW ENGLAND RAILROAD COMPANY,
RELATIVE TO FREIGHT CHARGES ON COAL.

October 15, 1895.

This complaint was filed October 1, 1895, and alleged an excessive freight charge on coal between Highland and Hibernia, Dutchess county. The complaint was forwarded to the railroad company, which answered on October 9, that the rate charged Mr. Brooks was in accordance with the rate fixed by all railroads east of the Hudson river with the consent of the Interstate Commerce Commission, and that the low rate to Hartford, which Mr. Brooks cited in his complaint as a reason for a reduction of the charge to him, had also been fixed, by consent of the Interstate Commerce Commission, to enable the roads to meet water competition at Hartford. The complaint was ordered dismissed for this reason and upon the further ground that, being interstate traffic and said rates having been approved by the Interstate Commerce Commission, if any cause for complaint existed such complaint should be made to the Interstate Commerce Commission.

V.

IN THE MATTER OF THE COMPLAINT OF S. F. PENFIELD AGAINST THE
NEW YORK, ONTARIO AND WESTERN RAILWAY COMPANY, RELATIVE TO FREIGHT CHARGES.

October 19, 1895.

This complaint was filed October 2, 1895, by S. F. Penfield of Hamden, on the Delhi branch of the New York, Ontario and Western Railway. Mr. Penfield, in his complaint, alleged excessive freight charges on flour, feed and grain coming from the west and destined to Hamden, and further alleged that a greater charge was made for delivery at Hamden than for delivery to points south and to New York city. It appearing, upon investigation, that the traffic referred to in the complaint was interstate commerce, the complaint was dismissed and the complainant advised to communicate with the Interstate Commerce Commission.

VI.

IN THE MATTER OF THE COMPLAINT OF CHARLES W. ECOB AND RESIDENTS OF THE VILLAGE OF SIDNEY, DELAWARE COUNTY, AGAINST THE DELAWARE AND HUDSON CANAL COMPANY, ALLEGING INSUFFICIENT PROTECTION AT A RAILROAD CROSSING.

November 19, 1895.

This complaint was filed on May 28, 1895, by Charles W. Ecob, street commissioner of the village of Sidney, approved by A. F. Phelps, the president of said village. It alleged the dangerous condition of a crossing at the Delaware and Hudson Canal Company's station in that village, and petitioned for the erection of gates and the employment of a flagman at the crossing day and night, Sundays not excepted. On September 7 an inspection of the locality was made by F. K. Baxter, Inspector of the Board, and on October 25, a further petition was filed, signed by Horace G. Phelps, members of the board of trustees and a large number of citizens, protesting against the use of gates and asking for a flagman. On November 19, the final hearing on the matter was given before the Board at its office in Albany, when the complaint and the accompanying petitions, together with the report of the Inspector of the Board, were considered and an order issued recommending that a competent flagman be stationed at the crossing from "such hour in the morning, as is at present the custom, until 11 o'clock at night." The company informed the Board it would comply with the recommendation and the case was closed.

VII.

IN THE MATTER OF THE COMPLAINT OF RICHARD S. WILLIAMS AGAINST THE PELHAM PARK RAILROAD COMPANY, ALLEGING A VIOLATION OF THE RAILROAD LAW, IN THAT THE SAID PELHAM PARK RAILROAD COMPANY DOES NOT TRANSPORT PASSENGERS OVER THE ENTIRE LINE OF RAILROAD BETWEEN BARTOW STATION AND BELDEN POINT, FOR ONE FARE OF FIVE CENTS.

November 20, 1895.

This complaint was filed with the Board October 24, 1895. Two hearings were had thereon in New York city, one on the 14th and the other on the 20th of November, F. J. Bischoff and E. H. Westfield for complainant, Green & Johnson for the Pelham Park Railroad Company. After hearing evidence and arguments,

Ordered, That the matter be dismissed on the ground that neither chapter 522 of the Laws of 1884, or chapter 934 of the

Laws of 1895, relative to the acquirement by the city of New York of certain territory, had the effect of reducing fares on street surface railroads within the territory so acquired.

VIII.

IN THE MATTER OF THE COMPLAINT OF RESIDENTS OF FULLER'S STATION AND GUILDERLAND CENTRE AGAINST THE WEST SHORE RAILROAD COMPANY, RELATIVE TO ADDITIONAL TRAIN SERVICE.

November 22, 1895.

This complaint was made on June 17, 1895, by J. H. Clute, representing the residents of Fuller's Station and Guilderland Centre, on the line of the West Shore Railroad, setting forth inadequacy of railroad and mail service along the route of said railroad between Ravena and South Schenectady. A hearing was had before the Board in relation to the matter, and a personal investigation was subsequently made by the Secretary, who reported back to the Board that Mr. Layng, general manager of the West Shore Railroad, had agreed to stop the early morning train at Fuller's Station and at Guilderland for the accommodation of those places. It appeared from the investigation that the railroad company had, in 1893 and 1894, operated trains especially to accommodate the residents of Ravena, Fuller's Station, Guilderland and South Schenectady. The operation of these trains resulted in so great a loss that the company was compelled to abandon them, and the Board determined, in view of this experience, that it could not recommend the resumption of this special service, especially in view of the fact that the company was willing to stop its regular trains at these stations for the public convenience. The case was closed on November 22, 1895.

IX.

IN THE MATTER OF THE COMPLAINT OF N. E. ECCLESTON AGAINST THE DELAWARE AND HUDSON CANAL COMPANY, THE DELAWARE, LACKAWANNA AND WESTERN AND THE NEW YORK, ONTARIO AND WESTERN RAILROAD COMPANIES, RELATIVE TO FREIGHT CHARGES ON COAL.

December 31, 1895.

N. B. Eccleston, of Oxford, complained to the Board relative to alleged discrimination of coal dealers at Oxford compared with the prices charged by dealers at Utica, alleging, in connection

therewith, that the excessive price at Oxford was the result of freight discrimination on the part of the railroads mentioned in the complaint. It appeared, upon investigation, first, that the Delaware and Hudson Canal Company was not a party to any through rate from the mines to Oxford and, therefore, not interested in the matter referred to in the complaint; second, that so far as the charges between Scranton and Oxford were concerned, it was interstate commerce and not under the jurisdiction of this Board. On December 31, 1895, Mr. Eccleston was, therefore, notified that the Board had no control over the prices of coal charged by dealers, and that any complaint relative to freight charges between Scranton and Oxford should be made to the Interstate Commerce Commission.

X.

IN THE MATTER OF THE COMPLAINT OF H. M. CASWELL AGAINST
THE WEST SHORE RAILROAD, RELATIVE TO ALLEGED DISCRIMINATION
IN PASSENGER CHARGES.

January 20, 1896.

This complaint was filed by H. M. Caswell on December 24, 1895, alleging that the West Shore Railroad charged a rate of fare from Malden to Saugerties of six cents, and from Saugerties to Kingston twenty cents, making the total between Malden and Kingston twenty-six cents, while the rate from Malden through to Kingston was thirty-eight cents. The complaint alleged that the through traffic must be excessive and erroneous. This complaint was forwarded to J. D. Layng, general manager of the West Shore Railroad, who, on January 6, 1896, replied, stating that the mistake to which the complainant called attention had been rectified by raising the rate from Saugerties to Kingston from twenty cents to thirty-two cents, thus making the sum of the local rates between Malden and Kingston conform to the through rate between the same points. The distance between Malden and Kingston is thirteen miles, and as the company is allowed by law to charge at the rate of three cents a mile the total tariff, thirty-eight cents, between these points is within the maximum.

XI.

IN THE MATTER OF THE COMPLAINT OF THE JOBBERS' ASSOCIATION
OF THE CITY OF UTICA AGAINST THE JOINT TRAFFIC ASSOCIATION.

February 4, 1896.

The following is a copy of the complaint and letter from this Board to the complainants:

UTICA, N. Y., *January 30, 1896.*

C. R. DEFREEST, ESQ., *Secretary Board of Railroad Commissioners,
Albany, N. Y.:*

DEAR SIR.— I am instructed by the Jobbers' Association of the city of Utica to write to your Honorable Body for information regarding the legality of the action of the board of traffic managers of the railroad companies of the State in joining together and advancing their rates of freight in this city and other cities in the State and depriving us of the reduction of rates which the ordinary competition between the three roads entering this city from New York city would entitle us to if this combination of the traffic managers of the different roads had not been entered into. If they can advance their rate from thirteen cents per hundred first class, to thirty-two cents per hundred first class, which they have done during the past two years, there is no reason why they should not, if they so decide, advance our rates to double that price.

We would further ask your Honorable Body for information regarding the charters of the respective roads, if there is not some provision in their charters which restricts them or limits them to the rates which they shall charge for freight throughout the State, and further, if we can take any action through your Board which would influence these roads in an equitable adjustment of the rates between this city and the rates which are charged to cities west of us and outside of the State.

We apply to you as the proper authorities for information in this matter. Any such information which you can give us will be duly appreciated.

Yours respectfully,

N. E. WHITE,

Secretary.

ALBANY, N. Y., *February 4, 1896.*

N. E. WHITE, ESQ., *Secretary, 22-24 Catherine Street, Utica, N. Y.:*

DEAR SIR.— Referring to your communication of the 30th ult., relative to the action of the board of railroad traffic managers, I am directed by the Board to say that this is an organization re-

cently formed comprising over thirty of the trunk lines of the country, extending in its operations over many States. The validity of the agreement between these companies has already been attacked by the Attorney-General of the United States, at the instance of the Interstate Commerce Commission, and the case is now pending in the United States Court, in the Southern District of New York, the determination of which will, I believe, answer your first inquiry.

Regarding the equitable adjustment of rates between the city of Utica and cities outside of the State, the Board believes that this is a matter over which the Interstate Commerce Commission, alone, has jurisdiction. As to rates between cities in this State, if it can be shown that unjust discrimination is practiced, or that any city is being discriminated against unlawfully, this Board will take cognizance of the matter and will endeavor, so far as it lies in its power, to remove the cause for complaint. Your communication in that respect is indefinite and can only be answered generally in the absence of specific allegations.

Your letter to the Attorney-General upon the same subject has also been referred to this Board, and this may be regarded as a reply to both communications.

Very truly yours,

CHARLES R. DeFREEST,

Secretary.

Since this correspondence the case pending in the United States Court, Southern District of New York, above referred to, was decided in favor of the Joint Traffic Association. An appeal has been taken by the Attorney-General, which is still pending.

XII.

IN THE MATTER OF THE COMPLAINT OF C. A. TWICHELL AGAINST THE
ERIE RAILROAD COMPANY, RELATIVE TO CONDITION OF STATION
BUILDING AT NORTH COLLINS.

February 8, 1896.

This complaint was filed January 30, 1896, and alleged inadequate station facilities at North Collins, on the line of the Buffalo and Southwestern branch of the Erie Railroad. The complaint alleged that the residents of the town had subscribed \$1,600 to pay for the erection of a depot, and that the Buffalo and Southwestern Railroad, to which company the money had been given, had never complied with its agreement. The complaint was for-

warded to the Erie Railroad Company, and on February 8, a reply was received stating that instructions had been issued to erect a new station building at North Collins in accordance with the agreement made with the residents of that place. The case was thereupon closed.

XIII.

IN THE MATTER OF THE COMPLAINT OF THEODORE S. JENKINS AND OTHERS AGAINST THE PROSPECT PARK AND CONEY ISLAND RAILROAD COMPANY, ALLEGING INSUFFICIENT TRAIN SERVICE.

February 13, 1896.

Complaint having been made to the Board of Railroad Commissioners by Theodore S. Jenkins and other residents along the line of the Prospect Park and Coney Island Railroad, alleging that the train service on said railroad is inadequate, and a hearing having been had on said complaint at the common council chamber in the city of Brooklyn on Thursday, February 13, 1896, George C. Eldridge, counsel, and others appearing for complainants, W. J. Kelly, counsel, appearing for the company, and after hearing evidence and arguments in the matter, and it appearing to the Board that the complaint is well founded, the Board recommends that trains Nos. 29, 31, 33, 227 and 229, on the Prospect Park and Coney Island Railroad, be restored as they appear on time-table No. 10, of the Prospect Park and Coney Island Railroad Company, dated October 1, 1895, and that a train similar to train No. 33, as shown on said time-table, and leaving at the same hour, be operated on Wednesday night of each week.

The company complied with the above recommendation.

XIV.

IN THE MATTER OF THE COMPLAINT OF GEORGE L. CARLISLE AGAINST THE HARLEM RIVER AND PORTCHESTER BRANCH OF THE NEW YORK, NEW HAVEN AND HARTFORD RAILROAD COMPANY, RELATIVE TO TRAIN SERVICE.

March 16, 1896.

This complaint alleged that the Harlem River and Portchester branch of the New York, New Haven and Hartford Railroad, was not running its cars in accordance with its charter; that its charter required that cars should be run between the Harlem river and Portchester, and that they were only run to New Rochelle.

The answer of the company, dated March 5, set forth that that portion of the Harlem River and Portchester branch between New Rochelle and the Harlem river was operated for suburban service in connection with the Second and Third avenue elevated railroad lines in New York city, and that the portion of the line between New Rochelle and Portchester is operated in connection with other portions of the main line of the company's railroad between New Haven and the Grand Central station, New York city; that this method requires that passengers from Harlem river to Portchester and from Portchester to Harlem river change cars at New Rochelle, at which point ample facilities are provided for the prompt and convenient transfer of passengers, and a sufficient number of trains making close connections are run. It appearing from the correspondence and from investigation that the public was conveniently and adequately served by the method of operation set forth in the answer of the New York, New Haven and Hartford Railroad Company, and that the abandonment of the suburban system of service would inconvenience the great majority of the patrons of the Harlem River and Portchester branch, the complaint was, on March 16, dismissed.

XV.

IN THE MATTER OF THE COMPLAINT OF JAMES F. SECOR, JR., AGAINST
THE NEW YORK, NEW HAVEN AND HARTFORD RAILROAD COM-
PANY.

March 16, 1896.

Complaint having been made to this Board by James F. Secor, Jr., through George L. Carlisle, a member of Assembly from Westchester county, alleging that passenger cars on the Harlem River and Portchester branch of the New York, New Haven and Hartford Railroad Company are not furnished with water-closets, and a hearing having been had on said complaint at the rooms of the chamber of commerce, 32 Nassau street, New York city, on Friday, March 6, 1896, at which the railroad company was represented, but complainant was not represented, and it being admitted by the representatives of the company that such cars are not equipped with water-closets, the Board recommends that at least one car in each passenger train run on the Harlem River and Portchester branch of the New York, New Haven and Hartford Railroad Company, be furnished with water-closets.

The company having failed to comply with the recommendation, the papers in the case were transmitted to the Attorney-General for his consideration and action November 16, 1896.

XVI.

IN THE MATTER OF THE COMPLAINT OF HUDSON P. ROSE AGAINST THE UNION RAILWAY COMPANY OF NEW YORK CITY, ALLEGING A VIOLATION OF THE RAILROAD LAW, IN THAT THE SAID UNION RAILWAY COMPANY CHARGE AN EXTRA FARE FROM WEST FARMS TO WEST-CHESTER VILLAGE IN THE TWENTY-FOURTH WARD OF NEW YORK CITY.

March 31, 1896.

This complaint was filed with the Board February 22, 1896. A hearing was had thereon in New York city on March 31, the complainant appearing in person, Hoadly, Lauterbach & Johnson for the company. After hearing arguments,

Ordered, That the complaint be dismissed on the ground that chapter 934 of the Laws of 1895, relative to the acquirement by the city of New York of certain territory, had not the effect of reducing fares on street surface railroads within the territory so acquired.

XVII.

IN THE MATTER OF THE COMPLAINT OF I. EUGENE WILLIAMS AGAINST THE BUFFALO, ROCHESTER AND PITTSBURG RAILROAD COMPANY, RELATIVE TO INSUFFICIENT STATION ACCOMMODATIONS AT EAST ASHFORD.

March 31, 1896.

This complaint was filed October 11, 1895, by I. Eugene Williams in behalf of the residents of East Ashford on the line of the Buffalo, Rochester and Pittsburg Railroad, and alleged that there was no shelter of any kind for passengers or freight at East Ashford. A hearing was given on the complaint at Buffalo on December 3, at which time the Board recommended the erection of a roof over a portion of the platform at East Ashford, and the boarding up of the sides, in order to afford necessary shelter. The company having complied with these recommendations, the case was closed.

XVIII.

IN THE MATTER OF THE COMPLAINT OF C. B. MCNAIR AGAINST THE DANSVILLE AND MOUNT MORRIS RAILROAD, RELATIVE TO FENCES.

April 13, 1896.

This complaint was filed by C. B. McNair, of Dansville, November 27, 1895, and alleged unsafe condition of fences between the

property of the complainant and the company, which the latter is required by law to keep in repair. The complaint was renewed on January 23, 1896. Both communications from Mr. McNair were forwarded to the company, and on April 13, 1896, satisfactory assurances having been received from the company that the fences would be placed in good condition, the case was ordered closed.

XIX.

IN THE MATTER OF THE COMPLAINT OF W. H. FARR AGAINST THE
ERIE RAILROAD COMPANY, RELATIVE TO FENCES.

May 7, 1896.

This complaint was filed April 27, 1896, and alleged a necessity for the repair of about 200 rods of fence on the farm of the complainant at Big Flats. The complaint was forwarded to the company, and on May 7 a reply was received stating that the fence would be immediately repaired. The case was thereupon ordered closed.

XX.

IN THE MATTER OF THE COMPLAINT OF ALFRED GRAY AGAINST THE
NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY,
AND THE WEST SHORE RAILROAD COMPANY.

May 11, 1896.

This complaint was filed with the Board on April 14, 1896. It alleges discrimination in freight charges on bananas between New York city and Ilion, the place of business of the complainant. The particular allegation is that the charge for bananas is at the rate of forty-eight cents per hundred pounds, while the charge for vegetables is only seventeen cents per hundred, and for oranges twenty-seven cents per hundred. It appears after investigation that the rates complained of by Mr. Gray are not special rates but are the regular class rates and established tariff, as determined by "official classification" adopted throughout the territory east of the Mississippi and north of the Ohio river, and that these rates uniformly govern the traffic of 131 railroads. Inasmuch as these rates are uniform to all shippers and have been adopted by so many of the railroad companies within the territory named, it would appear that the complaint is not one of discrimination, but is against a classification generally recognized as justified by the experience of the railroad companies in the

handling of perishable freight of this kind. There is no allegation that the complainant is compelled to pay a greater rate than any of his competitors.

The commodities referred to by the complainant, vegetables and oranges, can be boxed or barreled, and thus handled more compactly and easily in shipment than bananas, which are liable to damage and difficult to handle. Believing the classification to be a proper one, and there being no evidence of discrimination, the Board directs that the complaint be dismissed.

XXI.

IN THE MATTER OF THE COMPLAINT OF LOUIS H. GEIN AGAINST THE
NEW YORK AND PUTNAM RAILROAD COMPANY, LEASED BY THE
NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY.

May 11, 1896.

This complaint was filed on the 23d day of April, 1896, and alleged that the residents of Van Cortlandt, N. Y., are discriminated against in the matter of sixty and fifty trip tickets issued by the New York and Putnam Railroad Company. The complaint stated that the commutation rates charged by the company were \$6 for sixty rides, or \$7.40 for fifty trip family tickets between New York and Van Cortlandt, a distance of 4.8 miles (including elevated railroad fare), while to Yonkers, a distance of 8.1 miles, the charge was only \$6.60 for sixty rides and \$8.10 for fifty trip family tickets, also including elevated railroad fare.

The company admitted the above state of facts, except that it asserted that the rate for fifty trip family tickets to Yonkers is \$10 instead of \$8.10.

The statute permits this company to charge three cents per mile for each mile or fraction thereof. The commutation rate to Van Cortlandt, treating the distance as five miles, and deducting the elevated railroad fare — \$2.50 for fifty trip tickets and \$3 for sixty trip tickets — is at the rate of one cent per mile for the sixty trip tickets and less than two cents per mile for the fifty trip family tickets. The commutation to Yonkers, distance nine miles, is at a less rate than one cent per mile for the sixty trip tickets and one cent and seven-tenths per mile for the fifty trip family tickets.

As these rates are all within the limit provided by statute which the railroad company is permitted to charge, the Board is of the opinion that there is no violation of law in the charging of the above rates and it is, therefore, ordered that the complaint be dismissed.

XXII.

IN THE MATTER OF THE COMPLAINT OF ADDISON H. BROWN AGAINST
THE JAMESTOWN AND LAKE ERIE RAILROAD COMPANY, RELATIVE
TO UNSAFE CONDITION OF ROAD.

May 21, 1896.

This complaint was filed May 8, 1896, and alleged that the Jamestown and Lake Erie Railroad, from Jamestown to Mayville and Chautauqua, was generally in unsafe condition. An inspection was ordered made, and F. K. Baxter, Inspector of the Board, reported on May 13 as follows:

*To the Honorable, The State Board of Railroad Commissioners,
Albany, N. Y.:*

GENTLEMEN.—A careful inspection of the Jamestown and Lake Erie Railroad yesterday shows that, while some improvement has been made since the last inspection in September, 1895, the necessity of large tie renewals still exists; also large renewals in cattle pass and trestle timber. The promises made your Inspector last fall have not been carried out, and the road to-day is in a very poor state of maintenance. Your Inspector would suggest that 6,000 cross ties be placed before June 15 next or the opening of summer traffic. Also the renewal of bridge stringers, floor ties, tie-guards, guard-rail, and such bents and piles as are needed to place the road within a positive safe limit. This work should also cover thorough spiking and bolting and proper attention to the approaches to all structures in the roadbed. Also the removal of all trees close enough to cause derailment by reason of lightning and high winds. This road was built in 1885 and has been allowed to gradually run down until now. If it is to be operated this summer the above work and material should be furnished. Your Inspector would also suggest that until the work above mentioned is completed a speed not to exceed ten miles per hour should be strictly adhered to. The swamp near Jamestown remains about in the same condition as reported last. The extension of line spoken of in the last report is now being pushed forward, and the general manager informed your Inspector that extra material will thus be obtained to fill through the swamp and raise the track properly this summer.

Very respectfully,

F. K. BAXTER.

May 13, 1896.

The recommendations of the Inspector were made the recommendations of the Board, and the company was notified and a limit put on the rate of speed at which trains could be operated pending repairs. On May 15, a communication was received from the officers of the company stating that work along the line recommended by the Inspector and needed repairs were being made as rapidly as possible, and on May 18 a further communication was received asking permission to increase the rate of speed beyond ten miles an hour on the portion of the railroad repaired. Such request was granted on May 21, and the company was notified that later in the year another inspection of the road would be ordered and further action taken if the conditions required it.

On November 12, 1896, a further inspection was made, the report of which follows:

*To the Honorable, The State Board of Railroad Commissioners,
Albany, N. Y.:*

GENTLEMEN.—In accordance with your instructions, another inspection of the Jamestown and Lake Erie Railroad has been made, and the following report is respectfully submitted:

Since the last report, May 13, 1896, this company has placed a large number of cross ties, renewed piles, bents, caps and stringers on nearly all the structures in the roadbed, and filled for quite a distance in the swamp where the lake water formerly and in freshet times covered the roadbed. The silt and muck through this swampy portion of the road extends nearly thirty feet below the lake level, so that some sixty thousand cubic yards of material have thus far been placed. The material for this work was obtained in constructing the connecting line (some 3.64 miles in length) between Jamestown and Falconers, a station on the Dunkirk, Allegheny Valley and Pittsburg Railroad. About half a mile is yet to be filled toward Jamestown to elevate the Jamestown and Lake Erie track above the lake water.

The superintendent informed your Inspector that the road does not pay expenses, and that the only hope for traffic would come with the new connecting line. While the structures have been greatly improved, as stated above, the floor systems are far from safe, consisting of plank and ties largely decayed, and having no guard-timbers or guard-rail to prevent danger from derailment. Your Inspector was informed by the superintendent that good, solid floor ties and guards would be placed at once. Neglect is apparent in details everywhere. Rail-joint bolts missing and loose; meagre spiking, short pieces of rail, frogs loose and unbolted, very poor line and surface of track, too many decayed cross

ties, particularly at joints, and broken bars at rail-joints. This road should be ballasted. Good material is close at hand. The curves are in very poor condition. The track force upon this twenty-one miles of road has been, during last summer, nine men and two foremen (regular), with an extra force of ten men for about two weeks. As can readily be seen, this force upon a road already run down to the last limit could hardly be expected to keep the weeds, grass and brush removed, to say nothing of proper ditching, line, surface, grading, adjustment, renewal of cross ties and the like. The trees standing close enough to fall upon the track, if struck by lightning or blown over by high winds, have not been removed, as suggested in the last report. Not a few of these trees are decayed, and liable at any moment to cause derailment. The rail is surface-bent badly. The road has never been ballasted. One pair of rail-joint plates was found broken so that only the spikes at flange of rail held it in position. Two pieces of rail perhaps not over twelve inches in length were found. A number of four-bolt joint fastenings were found with two bolts missing. Broken frog-points, with bolts out, were noted. Old bolts, so much worn that the nuts will not hold, were found. No attempt at spacing cross ties for joints was noted.

Safety to the traveling public would seem to demand that every member be kept firmly in its place, and when broken, worn or decayed, new material should at once be furnished.

Your Inspector would suggest that if this road is to be operated through the winter sufficient material and assistance be obtained to make all the items perfectly safe. Locks at switches should be fastened at all times when not being used. Foot-guards should be placed, guard-rail should be placed upon all floors above ten feet span. The highway grade crossing signs should be legal. The switch targets should be painted, nuts, bolts, bars and braces at switch ends should be in firm position at all times, decayed shims should be removed, fences should be kept in repair, grass and weeds should be removed, crossing plank should be sound and in proper position, platforms should be kept safely repaired where used, and removed where abandoned. The sharp curves should be properly braced. The right of way should be kept free from inflammable matter, spare rail should be kept at frequent intervals along the line, clearance marks should be placed, derailing switches should be placed and kept locked at all points where there is downward grade to the main track.

Respectfully,

F. K. BAXTER,

Inspector.

November 12, 1896.

A copy of this report was sent the company with the recommendation that the repairs suggested be made immediately. In response to which the following letter was received:

JAMESTOWN, N. Y., November 16, 1896.

To the Honorable Board of Railroad Commissioners, Albany, N. Y.:

GENTLEMEN.—Your Inspector's report of November 12, relating to the condition of the Jamestown and Lake Erie Railway received. We shall at once order such materials as ties and guard-rail for trestling and have them placed. We will have the switch targets painted and the frogs and switches attended to. We are already putting in ties on the line and doing such work as your Inspector suggests.

(Signed) E. T. HAINES,
*Vice-President and General Manager,
Jamestown and Lake Erie Railway Company.*

XXIII.

IN THE MATTER OF THE COMPLAINT OF HART DOUGLASS AGAINST THE
DELAWARE AND HUDSON CANAL COMPANY, RELATIVE TO FENCE
AND CATTLE PASS.

June 13, 1896.

This complaint was filed April 30, 1896, and alleged insecure fencing and the closing of a cattle-pass on the farm of the complainant about three and one-half miles east of Batavia. The company answered on May 9 that the fence, consisting originally of an old stone wall, was repaired a few years ago by placing three strands of buckthorn wire above the wall, and that the cattle-pass was filled in between 1885 and 1886 when all culverts and cattle-guards along that division, which the company had a right to fill, were closed; further, that the filling of the cattle-pass on the Douglass farm was consented to by Hart Norris, then owner of the farm. An inspection of the locality was made by F. K. Baxter, in behalf of the Board, who recommended that the company be required to place at least two additional wires in the fence near the ground. Relative to the cattle-pass, he stated that it had been closed ten years and prior to the purchase of the property by Mr. Douglass, and suggested that no action be taken by the Board to reopen it. The recommendations of Mr. Baxter were

made the recommendations of the Board, and the complainant and the company notified. On June 13 a communication was received from the company stating that the additional strands of wire would be placed in the fence as recommended by the Board. The case was thereupon ordered closed.

XXIV.

IN THE MATTER OF THE COMPLAINT OF FRANK ENOS AGAINST THE
WEST SHORE RAILROAD, RELATIVE TO PASSENGER RATES.

June 13, 1896.

On May 26, 1896, Frank Enos, of New York city, complained against the West Shore Railroad, alleging that the passenger fare on that railroad from Fort Montgomery to New York, 42.9 miles, is ninety cents, while the fare from Fort Montgomery to West Englewood, a distance of 32.8 miles, is also ninety cents. It appeared from an investigation of the case that Fort Montgomery was in the State of New York and West Englewood in New Jersey, that the traffic was interstate commerce, and, therefore, not under the jurisdiction of this Board. The case was thereupon dismissed on June 13.

XXV.

IN THE MATTER OF THE COMPLAINT OF A. W. PAGE, RELATIVE TO
EXPRESS RATES AND DELIVERY.

June 15, 1896.

On May 29, 1896, A. W. Page, of Whitney's Point, wrote the Board asking for information as to the lawful regulation of express rates; whether express companies can charge more for a shorter distance than for a longer one over the same road to the same point. Also whether or not companies are obliged to deliver in small towns. On May 30, a letter was written Mr. Page stating if he would make formal complaint of alleged discrimination the matter would be investigated; that as to the question of delivery in small towns, there is no law compelling express companies to make such delivery. On June 9, Mr. Page further

communicated with the Board, alleging discrimination as between points in New York State and points in New Jersey and Pennsylvania, to which the Board replied on June 15: "Careful examination of your complaint of June 9 indicates that the rates complained against relate to express matter originating in this State and either passing through another State in transmission or terminating in another State, namely, Newark, N. J. Under the circumstances, this being interstate business, your complaint should be addressed to the Interstate Commerce Commission, Washington, D. C."

XXVI.

IN THE MATTER OF THE COMPLAINT OF THOMAS G. DEAN AGAINST THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY, RELATIVE TO THE OPERATION OF TRAINS IN THE YARD OF THE GRAND CENTRAL STATION, NEW YORK CITY.

June 22, 1896.

This complaint was filed on June 9, 1896, and alleged that the company was engaged in the alleged dangerous practice of making flying switches in running passenger trains through the yard into the Grand Central station, New York city. Answer was made to the complaint on June 12, by John M. Toucey, general manager of the road, stating that the practice complained of by Mr. Dean had been in vogue for 30 years, and that the method of handling trains is practically the same to-day, except that more efficient appliances are employed, such as interlocking switches and air brakes, and during that time no serious accident had occurred from this method of operation. It was further stated that by the method employed trains are fully controlled by the air brake while detached from the engine, and that the baggage-man in the baggage car has the brake in hand ready to apply it as readily and as effectually as could the engineer. The matter was investigated and duly considered by the Board, and it appeared from such investigation that the cars are under practically as good control while going down the grade from Forty-ninth street by their own momentum and can always be as quickly stopped by the air brakes as if attached to a locomotive; that they do not cross any street, avenue or highway while making the flying switch, and that traffic would be much impeded by any other method of operation in the yard at the Grand Central station than that now employed. The case was thereupon dismissed.

XXVII.

**IN THE MATTER OF THE COMPLAINT OF GEORGE J. GROSSMAN AGAINST
THE MANHATTAN RAILWAY COMPANY.**

June 30, 1896.

This is a complaint against the Manhattan Railway Company, alleging failure to comply with the requirements of chapter 743 of the Laws of 1894. The existence of the law and the failure of the company to comply with its provisions are conceded. The company alleges that it is a physical impossibility to comply with the law without abandoning its traffic as now conducted.

Upon the evidence submitted, the report of its Inspector and the personal observations of the Commissioners, the Board finds that a literal compliance with the law would prevent the Manhattan Company from rendering to the public the service for which it is incorporated.

The Board recommends that the tracks of the Third avenue line be connected with the tracks of what was formerly the Suburban Company, at or about One Hundred and Twenty-ninth street, and that a reasonable number of Third avenue trains, such number to be not less than ten each way daily, as will best accommodate the traveling public, shall be operated continuously as demanded in the complaint.

It would appear from observations of the Board and statements made to it that these trains will best accommodate the public if operated from 6 to 8.30 a. m. southbound, and 5 to 7.30 p. m. northbound.

It is further recommended that the present number of continuous trains on the Second avenue line be maintained.

It is further ordered that a copy of this order be served upon the company, and that upon failure to comply with the terms thereof within thirty days from this date that the matter be referred to the Attorney-General to take such proceedings thereon as may be necessary for the protection of the public interests.

On July 3, a letter was received from W. J. Fransioli, acting general manager of the Manhattan Railway, stating that the work of making the connection would be immediately instituted, and that the order of the Board would be complied with as speedily as possible. The necessary changes at One Hundred and Twenty-ninth street have since been made and the recommendations of the Board fully complied with.

XXVIII.

IN THE MATTER OF THE COMPLAINT OF O. MATHEWS AGAINST THE PROSPECT PARK AND CONEY ISLAND RAILROAD COMPANY, RELATIVE TO ALLEGED FAILURE OF THE COMPANY TO PLACE PROPER LIGHTS AND SPARK-ARRESTERS ON ITS LOCOMOTIVES.

June 30, 1896.

This complaint was filed April 23, 1896, and alleged that the Prospect Park and Coney Island Railroad Company was operating its road without having a sufficient light on the rear of its locomotives when running backward on the main line; also that the locomotives were not equipped with spark-arresters. A hearing was had before the Board on June 2, in New York city, when it was admitted by the company that small lights had been used on the rear of the locomotives, but denied that such locomotives were not equipped with spark-arresters. Relative to the particular locomotive referred to by Mr. Mathews in his complaint it was contended that the spark-arrester of that locomotive got out of order while in service, and that as soon as the trip was completed, the defect was repaired. The following is the order issued by the Board in relation to the matter:

The Board recommends that the company shall at all times properly equip its locomotives with lights in accordance with standard usage on steam railroads.

It is further ordered that the complaint as to failure to properly equip its engines with separate spark-arresters be dismissed.

XXIX.

IN THE MATTER OF THE COMPLAINT OF RYDER, LEFEVER & Co. AGAINST THE DELAWARE AND HUDSON CANAL COMPANY, RELATIVE TO FREIGHT CHARGES BETWEEN ALBANY AND COBLESKILL.

July 1, 1896.

This complaint was filed on May 15, 1896. It alleged that the complainants were shipping goods from New York to Albany, via the People's Line steamers, and from Albany to Cobleskill via the Delaware and Hudson Canal Company's Railroad, the freight being paid at Cobleskill. The complainants alleged that they had a contract with the People's Line for eight cents per hundred; that the local rate from Albany to Cobleskill by rail was nineteen cents per hundred, making a total of twenty-seven cents, but that the railroad company charged them at Cobleskill thirty-five cents per hundred, thus charging, in effect, an exorbi-

tant rate between Albany and Cobleskill. The answer of the company, presented at a hearing held before the Board at Albany, on July 1, set forth, that the through rate by rail, under traffic agreement, between New York and Cobleskill, was thirty-five cents; that the goods were billed through from New York to Cobleskill, and that the imposition of any less rate than thirty-five cents would interfere with their relations with their railroad connections; that all they received from the tariff was the regular local rate between Albany and Cobleskill, they having nothing to do with any special agreement made between the complainants and the People's Line steamers. The remedy suggested was to separate the billing and reship at Albany, by which method the complainants could get the advantage of their contract rate with the People's Line and the local rate between Albany and Cobleskill. This solution of the matter was accepted by the complainants and the case was ordered closed.

XXX.

IN THE MATTER OF THE COMPLAINT OF E. M. CARROLL AGAINST THE ERIE RAILROAD COMPANY, LESSEE OF THE NYACK AND NORTHERN RAILROAD, RELATIVE TO ALLEGED DANGEROUS CONDITION OF PART OF ROADBED OF THE LATTER RAILROAD, BETWEEN THE STATIONS OF SPARKHILL AND PIERMONT-ON-THE-HILL.

July 9, 1896.

This complaint was filed with the Board April 23, 1896, and alleged the dangerous condition of the roadbed of the Nyack and Northern Railroad, leased by the Erie Railroad Company, about 1,500 feet south of the station at Piermont-on-the-Hill. A copy of the complaint was forwarded to the company and an inspection was made by F. K. Baxter, the Inspector of this Board, who recommended the construction of a retaining wall at the point in question. This recommendation was made the recommendation of the Board, and on July 9, 1896, a letter was received from the complainant stating that the retaining wall had been constructed and the road placed in safe condition.

XXXI.

IN THE MATTER OF THE COMPLAINT OF THE WEST BROOKLYN ASSOCIATION AGAINST THE BROOKLYN, BATH AND WEST END RAILROAD COMPANY, OPERATED BY THE NASSAU ELECTRIC RAILROAD COMPANY, RELATIVE TO FAILURE TO STOP CARS AT CROSSING.

July 12, 1896.

This complaint was filed July 8, 1896, by Theodore H. Bailey, president of the West Brooklyn Association, and alleged that the Brooklyn, Bath and West End Railroad Company, leased and operated by the Nassau Electric Railroad Company, was not complying with the previous recommendation of this Board that cars should come to a full stop before crossing Cowenhoven's lane, or Fifty-fourth street and New Utrecht avenue. The complaint was forwarded to A. L. Johnson, president of the Nassau Electric Railroad Company, and on July 11, a reply was received stating that he had known nothing of the requirement of the full stop at the crossing named, and had directed a stop sign to be placed at said crossing requiring all cars going in either direction to come to a full stop. The case was thereupon ordered closed.

XXXII.

IN THE MATTER OF THE COMPLAINT OF JOSIAH S. VARNEY AGAINST THE DELAWARE AND HUDSON CANAL COMPANY, RELATIVE TO FLAG STATION.

July 17, 1896.

This complaint was made June 10, 1896, by Josiah S. Varney, of Dunham's Basin, in behalf of the residents of that locality, asking that that place be made a flag station by the railroad company. The matter was investigated by the Board, and it was ascertained that the station is only two and one-half miles from Fort Edward, contains but seven or eight houses, and that the company has rarely had occasion to stop any train to let off a passenger at that point. On July 17 the Board dismissed the complaint on the ground that the public interests do not require the establishment of a flag station as asked for by the complainant.

XXXIII.

IN THE MATTER OF THE COMPLAINT OF BENJAMIN SANDERS AGAINST THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY (ROME, WATERTOWN AND OGDENSBURG DIVISION), RELATIVE TO HIGHWAY BRIDGE, AT MARCY STATION.

July 28, 1896.

This complaint was filed May 21, 1896, by Benjamin Sanders, highway commissioner of the town of Marcy, and alleged that in the construction of a new highway bridge over the tracks of the Rome, Watertown and Ogdensburg Railroad at that point the new bridge had been raised four or five feet higher than the original one and the approaches made more difficult for travel. The company answered on June 6, stating that the former bridge had a clearance of only sixteen feet ten inches above the top of rail of main track and was a constant menace to the lives of the brakemen riding on tops of cars; that when it became necessary to renew the bridge it was raised to obtain a clearance of twenty-one feet above the top of rail, necessitating longer approaches and a gradient of eight feet per hundred, which was one and six-tenths feet per hundred less than the former gradient on the old bridge, and that the gradient was no greater than that at many other points on the highway. Mr. Sanders, replying to the answer of the company, reiterated his complaint and stated that while there were gradients on the highway equaling or exceeding that of the bridge, they were natural gradients, and that the approach to the bridge should be made easier for loaded teams. An inspection of the locality was ordered by the Board, and Mr. Baxter reported as follows:

To the Honorable, The State Board of Railroad Commissioners, Albany, N. Y.:

GENTLEMEN.—The following report is most respectfully submitted in the matter of complaint of Benj. Sanders, of Marcy, against the New York Central and Hudson River Railroad Company:

The above-named company erected (at the highway near the Marcy station) a framed bent bridge, elevating it above the old one considerably; the head room is about twenty-one and a half feet. The structure is a very substantial one, well made, with bents upheld by stone piers.

The highway at this point is much traveled and heavy loads are frequently drawn upon it. The new bridge, while stronger and better than the old one, is not satisfactory to the people who have to cross it. The slope of the bridge toward its ends is excessive

for practical needs. Teams drawing forty-five or fifty-five hundred pound loads slip, stumble and fall, particularly upon wet days, and if not remedied before the coming winter it will be next to impassable. The company's engineer truthfully says and shows by the profile of the highway that some of the grades are as much if not more than at the bridge. But it is to be remembered that these grades are natural and are being lessened wherever and whenever possible from year to year. When this bridge was erected, with very little additional expense, it could have been raised twelve inches at the ends and a little more material placed upon the approaches. Your Inspector would suggest that this be done without delay, and cinders or gravel (certainly not sand) be placed to make an easy grade. Your Inspector would also suggest that the side railing be boarded up about two feet from the ground so as to retain snow enough in the winter to facilitate passage over the bridge with some degree of comfort. As it is now the wind would blow and keep the approaches and bridge free from snow, a very serious condition when a heavy load is to be drawn over. When the approaches were recently elevated sandy material was used, and subsequently cinders were placed a few inches deep. Upon a steep grade sand material is the last thing to be utilized, deep mud is preferable.

Respectfully submitted,
(Signed), F. K. BAXTER.

The recommendations of the Inspector were made the recommendations of the Board, ordered transmitted to the company and the case closed.

XXXIV.

IN THE MATTER OF THE COMPLAINT OF CHARLES E. DETMER AGAINST
THE MARINE RAILWAY COMPANY, RELATIVE TO ABANDONMENT OF
OPERATION OF ITS RAILROAD.

July 29, 1896.

This complaint was made on June 30, by Charles E. Detmer, who alleged that the Marine Railway, operating between Brighton Beach and Manhattan Beach, had suspended operations, thereby cutting off the only direct means of travel between these places. The complaint was forwarded to the company and answer received on July 8, stating that the road began operations as usual, early in the season, but was compelled to suspend for the reason that the owners of the private property at its westerly terminus had

fenced off the approach to the road and posted notices prohibiting the public using the Marine Railway from entering on their land; that under these circumstances it became impossible to operate the railroad, and the Manhattan Beach Company also canceled the right to run on its property during the season. The answer further stated that the Marine Railway Company has attempted in good faith to operate its road as heretofore and that the interruption in its traffic was occasioned solely by the action of the Brighton Beach authorities. On July 8 the answer of the company was forwarded to Mr. Detmer, and on July 29, after a consideration of the case by the Board, a letter was written Mr. Detmer to the effect that the complaint being that the road is not operated at all, the matter was for the consideration of the Attorney-General and not the Board.

XXXV.

IN THE MATTER OF THE COMPLAINT OF JAMES S. ROOT AGAINST THE
LEHIGH VALLEY RAILROAD COMPANY, RELATIVE TO CATTLE PASS.

July 29, 1896.

This complaint originated in 1891. It first petitioned for a cattle-pass on the line of the Lehigh Valley Railroad in the town of Phelps. When the matter was then considered by the Board the company declined to present the case on its merits, simply raising the objection that the Board had no jurisdiction as between the rights of a private individual and the railroad company. Upon the report of its inspector, Mr. Spencer, the Board recommended that a cattle-pass be constructed, and referred the matter to the Attorney-General for action upon failure of the company to comply with the recommendation. A hearing was given before the Attorney-General, when it appeared that at the time the right of way was obtained by the railroad company a clause was inserted in the deed providing for a crossing at grade, the consideration of the transfer being \$475. The case was referred back to the Board of Railroad Commissioners for reconsideration, it being established that the Board had jurisdiction, when evidence was presented by the railroad company, and an agreement made to build a fence running from the complainant's land to the track, in order to protect the crossing at grade. On June 29, 1896, the complaint was renewed and the statement made that the fence or cattle-pass had not been constructed, and a demand again made for the construction of a cattle-pass. The Board declined to enter-

tain the application for a cattle-pass, but recommended to the railroad company that the fence be immediately constructed in accordance with the terms of the agreement above referred to. On July 29, a letter was received from Rollin H. Wilbur, general superintendent of the Lehigh Valley Railroad, stating that the recommendation of the Board regarding the fence had been complied with. The case was thereupon ordered closed.

XXXVI.

IN THE MATTER OF THE COMPLAINT OF R. W. WALKER AGAINST THE
LAKE SHORE AND MICHIGAN SOUTHERN RAILROAD COMPANY,
RELATIVE TO FIRES.

August 10, 1896.

This complaint was filed July 23, 1896, by R. W. Walker, of Westfield, Chautauqua county, alleging numerous fires along the line of the Lake Shore and Michigan Southern Railroad in the town of Westfield in said county, and suggesting that they were caused by the failure of the company to equip its locomotives with proper screens. The company answered on August 3, and stated that all of its locomotives are equipped with either what is known as the "extension front" or the "diamond stack;" and that on July 18, five fires occurring between Westfield and Ripley were caused by the netting of engine No. 547 getting out of order on the run. A copy of the letter of the company was ordered forwarded the complainant and the case closed.

XXXVII.

IN THE MATTER OF THE COMPLAINT OF J. L. MOCK AGAINST THE
DELAWARE AND HUDSON CANAL COMPANY, RELATIVE TO STATION.

August 18, 1896.

On August 14, 1896, a petition was forwarded to the Board by J. L. Mock, and others, of Douglass, Essex county, asking for additional station facilities. The complaint was forwarded the company, and on August 17 an answer was received stating that in accordance with previous recommendations of the Board, Douglass had been made a flag station; that accommodations had been provided and that passenger trains Nos. 11, 4 and 27 now stop on signal at that station. An investigation of the traffic at

this point was made by the Board, from which it was apparent that the train service as furnished by the company afforded sufficient accommodation for such traffic. The complaint was thereupon dismissed.

XXXVIII.

IN THE MATTER OF THE COMPLAINT OF FREDERICK G. RUNDE
AGAINST THE PROSPECT PARK AND CONEY ISLAND RAILROAD COM-
PANY, RELATIVE TO TRAIN SERVICE.

August 26, 1896.

On June 16, Frederick G. Runde, of Brooklyn, complained against the Prospect Park and Coney Island Railroad Company, alleging that certain trains on that railroad did not stop at Kensington Station. The company answered that the complainant, desiring to travel to Ninth avenue and Twentieth street, Brooklyn, by mistake took a train running to Fifth avenue and Thirty-sixth street; on presenting his ticket and his attention being called to his error the conductor stopped the train for him at Kensington, at or near the junction where the line running to Fifth avenue and Thirty-sixth street diverges from the line running to Ninth avenue and Twentieth street; that he could have walked from Kensington to Parkville, where all trains stop, and made his connection; Mr. Runde refused to go back to Parkville, preferring to walk to Ninth avenue and Twentieth street. It appearing that the mistake was entirely that of the complainant and that trains for Ninth avenue and Twentieth street do not stop regularly at Kensington after 11.45 a. m. the case was dismissed.

XXXIX.

IN THE MATTER OF THE COMPLAINT OF J. FOSTER KELLY AND OTHERS
AGAINST THE ROCHESTER RAILWAY COMPANY, ALLEGING A VIOLA-
TION OF SECTION 101 OF THE RAILROAD LAW.

August 27, 1896.

This complaint was received on August 24, from Hon. James M. E. O'Grady, attorney for W. Foster Kelly and others, and alleged that the Rochester Railway Company was violating the provisions of section 101 of the Railroad Law by charging its passengers more than five cents for one continuous ride from one

point on its road to another point thereof, within the limits of the city of Rochester. The complaint was forwarded to the company and on August 26, a reply was received stating that the company had not been aware of a violation of any section of the Railroad Law; that the alleged violation having been called to its attention, the matter complained of would be remedied. The case was ordered closed on August 27.

XL.

IN THE MATTER OF COMPLAINTS BY INDIVIDUALS AND FIRMS AGAINST
VARIOUS RAILROAD COMPANIES RELATIVE TO MILEAGE BOOKS.

September 1, 1896.

The Legislature of 1895, by chapter 1027, enacted a law requiring all railroads in this State, the line or lines of which are more than one hundred miles in length, to issue mileage books "entitling the holder thereof to travel 1,000 miles on the line or lines of such railroad, for which the corporation may charge a sum not to exceed two cents per mile," and providing a penalty of \$50 to be recovered by the person aggrieved by the refusal of the company to comply with the law.

Following the enactment of this law numerous complaints were made to the Board against the New York, Ontario and Western, the Erie, the Delaware, Lackawanna and Western, and the Rome, Watertown and Ogdensburg Railroad Companies, alleging that mileage books were kept on sale only at the general offices of the companies; that applicants for mileage books were required to pay in advance for the books and wait four and five days for their delivery.

These complaints were fully investigated by the Board, and on January 7, 1896, the following letter was forwarded to each company affected by chapter 1027 of the Laws of 1895:

ALBANY, *January 7, 1896.*

DEAR SIR.—The Board of Railroad Commissioners has been informed that railroad companies which come under the provisions of chapter 1027 of the Laws of 1895, providing for the issue of mileage books, are only issuing such books from the home office. The Board is of the opinion that this is not a compliance with the statute, and recommends that such books should be placed on sale at the ticket offices at large and important stations.

By the Board,

C. R. DEFREEST,

Secretary.

Satisfactory replies were received from all except the Erie, the Delaware, Lackawanna and Western, and the New York, Ontario and Western Railroad Companies, and pending further proceedings in the matter an amendment to chapter 1027 was proposed in the Legislature of 1896, which became a law May 22, 1896, providing that such mileage books be placed on sale at the offices in any incorporated city or village and issued immediately upon application therefor.

Complaints also followed the enactment of this statute, notably against the Delaware, Lackawanna and Western Railroad Company, and the efforts of the Board were promptly directed to securing complete observance of the law, with the result that on September 1 all the railroads in the State coming within its provisions were complying with chapter 835 of the Laws of 1896, so far as the sale of mileage books at certain specified stations is concerned.

The above chapter further provides that:

The holder of any such mileage book shall be entitled, upon surrendering, at any ticket office on the line or lines of such railroad coupons equal in number to the number of miles which he or any member of his family or firm, or a salesman of any such firm, wishes to travel on the line or lines of such railroad, to a mileage exchange ticket therefor. Such mileage exchange ticket shall entitle the holder thereof without producing the mileage book upon which such exchange ticket was issued, to the same rights and privileges in respect to the transportation of person and property to which the highest class ticket issued by such corporation would entitle him.

In the observance of this provision of the law some of the companies insist that if tickets are to be used by any of the persons entitled by law to use them other than the holder of the mileage book, the application for the exchange of coupons for tickets must be made by the holder of the mileage book. Complaints have been made against this practice, but the Board is of the opinion that the language of the statute at least renders it liable to the construction placed upon it by the railroad companies, and that in any event the question of interpretation is for the courts and not for the Board.

Prior to September 1, on which date the Board was advised that all companies were obeying the law relative to the sale of mileage books, an action was begun by John E. Holmes, of Corning, against the Delaware, Lackawanna and Western Railroad Company to recover the penalties for refusal to sell tickets as the law directs. Justice Bradley appointed William H. Reed, of Corning, to take testimony, and on October 3 judgment was rendered in favor of the plaintiff for \$625.92. The defendants ap-

peared, but did not file an answer to the complaint. It was stipulated, however, that under certain conditions the case might be reopened and another trial had, in which event a judicial determination of all questions relating to the law will probably be made.

XLI.

IN THE MATTER OF THE COMPLAINT OF CHARLES H. WEIDNER
AGAINST THE ULSTER AND DELAWARE RAILROAD COMPANY, RELATIVE TO FENCE.

September 5, 1896.

This complaint was filed July 22, by C. H. Weidner, of West Shokan, Ulster county, alleging that the fence between a portion of his property and the railroad was not sufficient to turn sheep. The company answered requesting an investigation by the Board, with the assurance that it would reconstruct the fence if it did not suit the requirements of law. The fence in question was inspected by George L. Lewis in behalf of the Board, who recommended that the company remove the old ties along the ground on the line of the fence and place another wire about six inches below the present lower wire for a distance of about 400 feet. The recommendations of Mr. Lewis were made the recommendations of the Board, and a letter was subsequently received from the complainant stating that the recommendations had been complied with.

XLII.

IN THE MATTER OF THE COMPLAINT OF JOHN C. SMITH AGAINST THE
ERIE RAILROAD COMPANY, RELATIVE TO ALLEGED VIOLATION OF
THE LAW AT RAILROAD CROSSING.

September 9, 1896.

This complaint was received on August 30, from John C. Smith, of Olean, and alleged that the Erie Railroad trains did not make a full stop before crossing the tracks of the Dunkirk, Allegheny Valley and Pittsburg Railroad Company near Falconer, as the law directs. The complaint was forwarded to the railroad company, and on September 8, a reply was received stating that the crossing is protected by an interlocking system of switches and signals, in accordance with statute. Investigation proving that

such interlocking system had been approved by the Board of Railroad Commissioners in 1890, and had been placed in operation soon thereafter, the complaint was dismissed.

XLIII.

IN THE MATTER OF THE COMPLAINT OF E. C. CUYLER AGAINST THE COOPERSTOWN AND CHARLOTTE VALLEY RAILROAD COMPANY, RELATIVE TO ALLEGED UNLAWFUL CHARGE FOR BICYCLE.

September 22, 1896.

This complaint was filed with the Board on August 24, and alleged that at Cooperstown, on August 8, the baggage master exacted a payment of seventy-five cents for alleged excessive weight of baggage, such baggage consisting of a crated bicycle and a small trunk, the combined weight of which did not exceed 150 pounds. The complainant also stated he had been informed that an arbitrary weight of 100 pounds was placed by the company on all bicycles. The complaint was forwarded to the company, which answered that the excess charge would be returned to Mr. Cuyler, and that there was no rule and never had been any by the company making such arbitrary weight on a bicycle except as freight. Mr. Cuyler subsequently informed the Board that the money had been returned by the company, and on September 22 the case was ordered closed.

XLIV.

IN THE MATTER OF THE COMPLAINT OF FREDERICK GOLL AGAINST THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY, RELATIVE TO ALLEGED EXCESSIVE FREIGHT RATE.

September 28, 1896.

This complaint was filed August 4, 1896, and alleged that \$5 was charged for a shipment of dining tables from Melrose station to St. John's park, New York city, while the charge for the shipment of the same tables from St. Johns, Mich., to Melrose station had been only \$8.33. The complaint was forwarded to the company, which answered that an error had been made, Mr. Goll having been charged at the rate of switching freight in car-load lots between the stations in question, instead of at the rate

of twelve cents per hundred pounds, his shipment weighing but 1,290 pounds. The difference having been refunded Mr. Goll, the case was ordered closed.

XLV.

IN THE MATTER OF THE COMPLAINT OF EPHRAIM CUTTER, M. D.,
AGAINST THE UNION RAILWAY COMPANY, OF NEW YORK CITY,
RELATIVE TO CONDITION OF CARS.

September 28, 1896.

On July 31, 1896, Ephraim Cutter, M. D., residing on the Boston road, on the line of the Union Railway, in New York city, complained that by reason of defective condition of the cars of said company, the residents along the line were continually annoyed by the noise. The company answered on August 8, denying every portion of the complaint, and C. R. Barnes, Electrical Expert of the Board, was directed to make an investigation. September 9 Mr. Barnes reported as follows:

Hon. C. R. DeFreest, Secretary of the Railroad Commission:

DEAR SIR.— In accordance with your instructions I have investigated the complaint of Ephraim Cutter, M. D., against the Union Railway of New York city, and beg to submit the following:

I inspected that line of the Union Railway system which passes Mr. Cutter's house and found the track and overhead construction in good shape, no cause for complaint. I inspected every car running on this line Monday, September 7, and found all cars in good working order with one exception, car No. 40, which had a broken gear. This I reported to Mr. Maher, president of the road, who promised to have this car taken off until it could be repaired. The roadbed, track and overhead construction in front of Mr. Cutter's house are in splendid condition, and the cars, with the one exception noted, are in good condition. I could find nothing to condemn, or can I make any suggestions which would stop the noises complained of by Mr. Cutter.

Mr. Cutter lives on Boston road at a point where there is a heavy grade, and in passing his house going up this grade the motors are doing their maximum amount of work, and make more noise than when running on a level track. Mr. Cutter lives in house 1054, Boston road. I inquired of the people living in the

same block at Nos. 1050 and 1052, who said they did not notice any unusual noise and were not discommoded by the cars passing.

All of which is respectfully submitted,

C. R. BARNES,

Electrical Expert.

A copy of this report was forwarded the complainant and the company and the complaint dismissed.

XLVI.

IN THE MATTER OF THE COMPLAINT OF E. J. SCHRIVER AND ROBERT T. P. FISKE AGAINST THE STATEN ISLAND RAPID TRANSIT COMPANY, RELATIVE TO THE USE OF REBATE TICKETS.

September 30, 1896.

These complaints were filed, by Mr. Schriver on August 26, 1895, and by Mr. Fiske on December 18, 1895. They alleged that the Staten Island Rapid Transit Company compelled all passengers riding on certain portions of its road to purchase tickets, good for transportation across the ferry to New York city, whether they desired to cross said ferry or not, and provided only an hour for the redemption of the ferry coupon. A hearing was had before the Board on Mr. Schriver's complaint on November 14, 1895, at which the facts as alleged by the complainant were admitted by the company, in justification of which, it was stated that no other method could be adopted to prevent loss to the company on account of the system employed in transferring passengers from the trains to the ferry. It was expressly stated, as the opinion of the Board, that the practice of the company was a violation of law; that a greater sum could not be exacted from a passenger for a ticket than the regular compensation for the distance he desired to travel, and that in any event a longer time should be given for the redemption of the ferry coupons. F. S. Gannon, general manager of the railroad company, stated, further, on behalf of the company, that efforts would be made to comply with the suggestions of the Board in the matter of the time limit, but that it would be impossible to change the method of selling tickets without great inconvenience to a great majority of the patrons of the road who use both the railroad and the ferry. Final decision in the case was reserved pending the efforts of Mr. Gannon to adjust the differences.

XLVII.

IN THE MATTER OF THE COMPLAINT OF THEODORE W. STARBUCK AGAINST THE NASSAU ELECTRIC RAILROAD COMPANY, RELATIVE TO STOPPING CARS AT FIFTY-FIFTH STREET ON THE LINE OF THE BROOKLYN, BATH AND WEST END DIVISION OF SAID RAILROAD.

October 8, 1896.

This complaint was received on August 7, and alleged refusal on the part of conductors to stop cars at Fifty-fifth street, otherwise known as Blythebourne Station. The company answered on August 10, denying the allegations of Mr. Starbuck, and stating that cars were required to stop at Fifty-fifth street as there is a "Stop" sign at that point and a city ordinance making it imperative that cars should stop there. Upon investigation, it being ascertained that the company was reasonably complying with the city ordinance and the order of this Board, the complaint was dismissed.

XLVIII.

IN THE MATTER OF THE COMPLAINT OF E. C. M. RAND AGAINST THE NEW YORK, LAKE ERIE AND WESTERN RAILROAD COMPANY, RELATIVE TO ALLEGED DANGEROUS HIGHWAY CROSSING AT BLAUVELT.

October 19, 1896.

This complaint was filed August 24, 1895, and called the attention of the Board to an alleged dangerous highway grade crossing on the Erie Railroad at Blauvelt, N. Y. The complaint was forwarded to the company, and E. B. Thomas, one of the receivers, replied on September 16, 1895, that Mr. Rand was practically the only user of the crossing; that it was not a regularly traveled highway; that there were only four trains a day over the road at that place, and that there was another route by which Mr. Rand could get to the station whereby he could cross the railroad track on an overhead structure. Mr. Rand replied to this answer on October 5, 1895, saying that he would subsequently file additional statements bearing upon his complaint. More than a year having elapsed and Mr. Rand having failed to file such statements, the case was, on October 19, 1896, ordered dismissed.

XLIX.

IN THE MATTER OF THE COMPLAINT OF J. S. GOLDSMITH AGAINST THE
LONG ISLAND RAILROAD EXPRESS COMPANY, RELATIVE TO AL-
LEGED DISCRIMINATION.

October 19, 1896.

On August 24, 1896, J. S. Goldsmith, of Oceanus, L. I., complained against the Long Island Railroad Express Company, alleging discrimination and lack of uniformity in express rates. The complaint was duly forwarded the Long Island Railroad Company, which replied that no complaint had been made to the express company; that the rate to Holland, the nearest station to Oceanus, was fifty cents per 100 pounds, and that rates at other points varied, according to distance, from twenty-five cents to seventy cents per 100 pounds, and was in no case in excess of the maximum above stated; and, further, that the presentation of Mr. Goldsmith's grievance would receive prompt attention and adjustment if any ground for such complaint existed. The Board directed that Mr. Goldsmith be notified to apply first to the company for redress, and in the event of failure to appeal to the Board for redress. No further complaint being made by Mr. Goldsmith, the case was ordered closed on October 19.

L.

IN THE MATTER OF THE COMPLAINT OF DELANCEY M. ELLIS AGAINST
THE NORTHERN CENTRAL RAILWAY COMPANY, RELATIVE TO
CHARGE FOR TRANSPORTING A BICYCLE.

October 19, 1896.

This complaint was filed by Delancey M. Ellis, on September 30, 1896, and alleged that on July 20, he was charged fifteen cents for the transportation of a bicycle from Elmira to Penn Yan on the Canandaigua division of the Northern Central Railway, in violation of chapter 333 of the Laws of 1896. The complaint was duly considered by the Board on October 19, and a letter was ordered written to the complainant dismissing the complaint on the ground that a remedy was provided in the statute referred to for its enforcement, and that relief could only be obtained by the plaintiff in an action to recover the penalty provided for a violation of said statute. Several actions for the recovery of such penalty are now pending, and the constitutionality of the act in question is likely, soon, to be judicially determined.

LI.

IN THE MATTER OF THE COMPLAINT OF B. CUMMINGS AGAINST THE DELAWARE, LACKAWANNA AND WESTERN RAILROAD COMPANY, RELATIVE TO AN ALLEGED DANGEROUS CROSSING AT APULIA, ONONDAGA COUNTY.

October 19, 1896.

This complaint came to the board through the Attorney-General on August 21, 1896. The complainant, B. Cummings, highway commissioner of Apulia, Onondaga county, alleged a dangerous crossing on the line of the Syracuse, Binghamton and New York Railroad, operated by the Delaware, Lackawanna and Western Railroad Company, and, further, that the tracks had been raised so far above the level of the highway as to make it difficult for teams to cross. An examination of the locality was made by F. K. Baxter, Inspector of the Board, on October 16, who reported that the highway in question is not a main traveled highway, and is principally used in going to the mill of a Mr. Wright; that the grades at the crossing are very steep, and that an underground crossing could be easily constructed; that the railroad company has offered to eliminate the grade crossing if the town would bear a portion of the expense, and that upon one occasion the town board agreed to make the necessary excavation but failed to do so, having decided that it would not spend any money or assist in making an undercrossing, because the road was not a benefit to any material number of residents of the town. The Inspector recommended, that while it was desirable to eliminate the crossing, owing to the fact that it is not nearly as much traveled as the main highway, and that there are many more dangerous crossings on the line of the road which should first receive attention, substantial assistance should be guaranteed by the local authorities as a basis for action by the Board. These recommendations were concurred in by the Board and the complaint ordered dismissed, with the understanding that in case the town board agrees to meet such portion of the expense as is provided in the general grade crossing recommendations of this Board, efforts would be made to secure action on the part of the railroad company.

LII.

IN THE MATTER OF THE COMPLAINT OF G. P. DODGE AGAINST THE LONG ISLAND RAILROAD COMPANY, RELATIVE TO TRANSPORTATION OF BAGGAGE.

October 19, 1896.

This complaint was filed on August 28, 1896, by G. P. Dodge, and alleged that the Long Island Railroad Company refused to

carry passengers' baggage on many of the trains which are regularly advertised to run on schedule time. The specific complaint set forth is that, on or about the 15th of August, 1896, two passengers having purchased tickets to Great Neck, demanded to be transported there with their baggage on the first train, and were informed by the employes of the company that baggage was not carried on trains leaving Long Island City at 4.30, 5 and 5.30 p. m., but that the baggage would be forwarded on the 6 o'clock train. The matter was fully investigated by the Board, from which investigation it appeared that certain trains operated on the northern division for the benefit of residents along the line of said division doing business in New York were known as express trains, and that for the better accommodation of the traveling public and in order to obviate delay at stations, baggage was not carried on those trains, but that there were a sufficient number of trains closely following the express trains upon which baggage was carried. The Board deeming that this method of operation provided better accommodation for the great majority of the patrons on that branch of the road and that the delay in transportation of baggage was never greater than one and one-half to two hours, the complaint was dismissed.

LIII.

IN THE MATTER OF THE COMPLAINT OF MESSRS. BRADY AND HINMAN
AGAINST THE DELAWARE AND HUDSON CANAL COMPANY, RELATIVE
TO ALLEGED EXCESSIVE FREIGHT CHARGES.

October 19, 1896.

This complaint was made on July 16, 1896, by Messrs. Brady & Hinman, hop dealers at Cooperstown, Otsego county. They alleged that in the shipment of hops, 14,000 pound lots are classified by the railroad company as the minimum weight of a carload, upon which second-class rates were charged; that on March 19, 21 and 23, 1896, they delivered three carloads of hops, each billed at 14,000 pounds, consigned to Richard & Weaver, Wilkesbarre, Pa., upon which they were entitled to second-class classification; that the company did not have cars of sufficient size to load 14,000 pounds in each car, and that two of the shipments were billed at greater rates than is provided for carload lots. The complaint was forwarded to the Delaware and Hudson Canal Company, and on July 21 an answer was received practically conceding the allegations of the complainants regarding the two ship-

ments named, but stated that they were loaded and shipped in accordance with official classification under the rules governing such shipments. The complaint and answer were duly considered by the Board on October 19, and it was ordered that a letter be written the Delaware and Hudson Canal Company to the effect that the Board did not believe that a shipper should be compelled to pay at a greater rate than is provided for carload lots when, through the fault of the railroad company, it did not furnish cars of sufficient capacity to carry the minimum carload weight, and it was suggested that an adjustment of the difference, amounting to some thirteen dollars, be made with the complainants.

LIV.

IN THE MATTER OF THE COMPLAINT OF WILLIAM V. REYNOLDS AND
OTHER RESIDENTS OF REYNOLDS, N. Y., AGAINST THE FITCHBURG
RAILROAD COMPANY.

November 9, 1896.

This complaint was received by the Board on October 6, 1896. It alleged that the Fitchburg Railroad Company had abandoned the station at Reynolds, taking away the agent and making it simply a flag-stop. A copy of the complaint was sent to the company and its answer received. A public hearing was given by the Board on November 9, at which the complainants were represented by William V. Reynolds and J. B. McKain, the company by T. F. Hamilton. The allegations of the complainants were proved to be true and were practically admitted by the company.

Section 34 of the Railroad Law says that "no station established by any railroad corporation for the reception or delivery of passengers or property, or both, shall be discontinued without the consent of the Board of Railroad Commissioners first had and obtained." No application has been made under this section nor has the Board consented to the abandonment of the station.

The Board, therefore, recommends that the station at Reynolds be re-established, with the former service, as it existed immediately prior to October 6, 1896.

STATIONS AND STATION BUILDINGS.

I.

IN THE MATTER OF THE APPLICATION OF THE MIDDLESEX VALLEY RAILROAD COMPANY, FOR CONSENT TO DISCONTINUE A STATION AT GORHAM, UNDER SECTION 34 OF THE RAILROAD LAW.

February 4, 1896.

J. H. Metcalf, for the applicant, the Middlesex Valley Railroad Company.

John Gillette, for James H. Allen and others, in opposition.

In many respects the propriety of the change proposed seems to have been established. The new site is more convenient for the public and the manner of reaching it is better so far as public safety is concerned. One of the reasons for the retention of the old station no longer exists since a new station has been placed at Greens. But the case is complicated by the assertion of rights by the protestant, Allen. The possession of these rights is not disputed. From their nature they can not be litigated before the Board, and the Board doubts whether it is just to disregard them. Apparently under existing statutes it is practicable for the company by condemnation proceedings to extinguish these rights. It is the judgment of the Board that this should be done before the company receives the consent applied for.

The application is, therefore, denied, without prejudice to its renewal.

II.

IN THE MATTER OF THE COMPLAINT OF RESIDENTS OF THE VILLAGE OF NUNDA AGAINST THE WESTERN NEW YORK AND PENNSYLVANIA RAILROAD COMPANY, RELATIVE TO LACK OF FREIGHT SHIPPING FACILITIES IN THAT VILLAGE.

April 6, 1896.

This complaint was filed with the Board January 31, 1896. The petition was numerously signed by residents and business men of the village of Nunda. It alleged that the Western New York

and Pennsylvania Railroad Company does not receive or deliver freight in that village except in carload lots, but compels its patrons to go to the West Nunda station, a distance of about seven-eighths of a mile from the business portion of the village.

The company, in its answer, alleged that "the volume of freight business less than carload lots is not, nor are the inconveniences to which the inhabitants of Nunda and vicinity are subjected under the present arrangement, sufficient to warrant your Board in making the order asked for by said petition."

A hearing was given before the Board at Nunda, on February 27, 1896, at which the complainants were represented by F. C. Peck. The company was not represented. A further hearing was given at Albany on March 9, at which the company was represented by Frank Rumsey, general solicitor, the complainants not being represented. The evidence before the Board at Nunda was to the effect that the merchants of that village ship and receive a considerable amount of freight in less than carload lots, which must be carted to and from the station at West Nunda. At the conclusion of the hearing on March 9 it was determined to hold the case open in order to permit, if possible, of an amicable adjustment of the differences between the company and the complainants. A proposition was subsequently submitted to the complainants satisfactory to them except as to the maintenance of an agent at the Nunda station during business hours, in lieu of which the company proposed to have an agent there to receive and deliver freight at certain hours of the day only.

The Board is of the opinion that the request of the complainants in this particular is not unreasonable and, therefore, recommends that the Western New York and Pennsylvania Railroad Company arrange to run each day a freight car from Rochester to Nunda, into which car shall be loaded all freight for Nunda originating at Rochester and between Rochester and Nunda Junction, and to which car shall be transferred also at Nunda Junction freight for Nunda coming from the south. Also that shipments of freight from Nunda shall be loaded in a car at that point and forwarded via Nunda Junction, freight for the south being transferred each day to the way freight in that direction; the company to keep an agent at all times during business hours at the depot now established in the village of Nunda authorized to receive and deliver all freight received at such depot or delivered thereat for transportation.

The company failed to obey the order of the Board within the time specified, and the matter was referred to the Attorney-General for his consideration and action. An investigation was made by the Attorney-General, when a new proposition was submitted

on behalf of the railroad company offering to remove the depot at Nunda Junction to Nunda and have all the business of the two points transacted at the latter place. The case was thereupon returned to the Board and correspondence reopened with the complainants and the railroad company based upon the new proposition. Negotiations between the company and the plaintiff were at once resumed and the matter is still pending.

III.

IN THE MATTER OF THE APPLICATION OF CHRISTIAN M. MEYER TO
CHANGE NAME OF STATION ON THE LONG ISLAND RAILROAD.

September 29, 1896.

On March 28, 1896, Christian M. Meyer, in behalf of himself and residents of Newtown, a station on the Long Island Railroad, petitioned the Board to direct the railroad company to change the name of the station to Elmhurst, on the ground that the post-office department had made such change, and that the place is known as Elmhurst. After some correspondence on the subject and the filing of a brief by James W. Covert in behalf of the petitioners, the Board decided that while it was proper and desirable that the name of the station should be the same as that of the post-office, the Board had no jurisdiction; that, in fact, the change could be made by the railroad company with the approval of the residents of the locality. The case was ordered closed on September 29, 1896.

IV.

IN THE MATTER OF THE COMPLAINT OF RESIDENTS OF PURDY'S STA-
TION AGAINST THE NEW YORK, ONTARIO AND WESTERN RAILWAY
COMPANY, RELATIVE TO ABANDONMENT OF STATION.

October 12, 1896.

This complaint was filed May 28, 1896, and alleged that Purdy's station had been an established station for freight and passengers for over twenty-five years; that the station had been abandoned by the railroad company for the alleged reason that business at that point had decreased, but that the reason for such decrease primarily was poor train service. The company replied on July

3, that it had found it expedient to do away with all useless and nonpaying stations so far as practicable; that there were already a sufficient number of stations in the vicinity of Purdy's station, and no occasion for a continuance of the service at Purdy's station.

The attention of the company was called to section 34 of the Railroad Law, which prohibits the abandonment of a station without the consent of the Board of Railroad Commissioners.

Applications for Change of Motive Power.

I.

IN THE MATTER OF THE APPLICATION OF THE NEW YORK, ELMSFORD AND WHITE PLAINS RAILWAY COMPANY, FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF THE OPERATION OF ITS RAILROAD BY THE OVERHEAD ELECTRICAL TROLLEY SYSTEM OF MOTIVE POWER.

October 15, 1895.

Application by the New York, Elmsford and White Plains Railway Company having been duly made to this Board on or about July 12, 1895, for the approval of the Board of the operation of its railroad by the overhead electrical trolley system of motive power, and hearings having been given on said application on the 1st and 15th days of October, 1895, John H. Miller, counsel, appearing for the application, and Charles F. MacLean and Hamilton Harris in opposition thereto; now, after filing due proof of publication of notice of hearing before this Board, and after reading and filing original and certified copies of consents of property owners and of local authorities, and it appearing therefrom that the owners of more than one-half and one-third, respectively, in value of the property bounded on that portion of the railroad with respect to which the use of the overhead electrical trolley system of motive power is proposed, and the local authorities, have consented thereto, now, therefore, it is

Ordered, That said application be and it is hereby approved upon the following routes, to wit:

Upon and along the Tarrytown road in the town of Greenburgh, from a point commencing at the New York and Putnam Railroad, easterly along and upon said Tarrytown road, passing the fair grounds, to the village line of White Plains; thence in the village of White Plains, easterly along the Tarrytown road to Central avenue; thence southerly along Central avenue to the Bronx river, crossing the Bronx river bridge; thence easterly along said Central avenue to Railroad avenue; thence easterly along Railroad avenue to Broadway; thence northerly along Broadway to Lake street; thence along Lake street to Harrison street in Silver Lake park, and thence along Harrison street to the town line of the town of Harrison; thence in the town of Harrison, running northeasterly along Harrison street to Dover ave-

nue; thence easterly along the said Harrison street to Underhill avenue; thence northerly along Underhill avenue to the Boulevard to block 10 and in front of plot 43 in Silver Lake park, with the following conditions, which are hereby made a part of this order:

First. This application is granted and accepted subject to the lawful regulations of the local authorities and subject to such further regulation, as to speed or otherwise, by this Board, as may hereafter seem fit and proper.

Second. The poles from which the wires are to be suspended shall be of such a construction and height as to conform to the requirements of the local authorities.

Third. No car shall be run with less than two men to operate it.

Fourth. The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage, induction or otherwise, from interfering with the currents upon the wires of other companies, whether telegraph, telephone or other wires; but this provision is not intended to require that the said company shall construct a double circuit.

Fifth. Every car shall be equipped with gates on both ends, which shall be closed on the side of the car next to the adjoining track. No person (except an instructor, when necessary), shall be allowed to ride on the platform with the motorman on any electric car.

Sixth. On all open cars there shall be attached a guard-rail or device on the side of the car next to the adjoining track, running the entire length of the car, to prevent passengers entering or leaving the car on that side; this guard-rail or device to be of such a nature that it may be transferred from one side to the other.

Seventh. This order shall in no wise be considered as an authorization on the part of the New York, Elmsford & White Plains Railroad to operate its road by electricity across the tracks of the Harlem Railroad Company.

II.

IN THE MATTER OF THE APPLICATION OF THE CORNING AND PAINTED POST STREET RAILWAY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF THE OPERATION OF ITS RAILROAD BY THE OVERHEAD ELECTRICAL TROLLEY SYSTEM OF MOTIVE POWER.

December 23, 1895.

Application by the Corning and Painted Post Street Railway having been duly made to this Board on or about December 3, 1895,

for the approval of the Board of the operation of its railroad by the overhead electrical trolley system, and a hearing having been had on said application on Monday, December 23, 1895, Warren J. Cheney, counsel, appearing for the application, and no one in opposition thereto; now, after filing due proof of publication of notice of hearing before this Board, and after reading and filing the affidavits of Caleb L. B. Tylee, Warren J. Cheney, Joseph W. Borst and S. B. H. Nichols, and it appearing therefrom that the owners of more than one-half in value of the property bounded on that portion of the railroad with respect to which the use of the overhead electrical trolley system of motive power is proposed, and the local authorities, have consented thereto, now, therefore, it is

Ordered, That said application be and it is hereby approved upon the routes now consented to by the local authorities, upon the following conditions, which are hereby made a part of this order:

First. This application is granted and accepted subject to the lawful regulations of the local authorities and subject to such further regulation, as to speed or otherwise, by this Board, as may hereafter seem fit and proper.

Second. The poles from which the wires are to be suspended shall be of such a construction and height as to conform to the requirements of the local authorities.

Third. No car shall be run with less than two men to operate it.

Fourth. The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage, induction or otherwise, from interfering with the currents upon the wires of other companies, whether telegraph, telephone or other wires; but this provision is not intended to require that the said company shall construct a double circuit.

Fifth. Every car shall be equipped with gates on both ends, which shall be closed on the side next to the adjoining track. No person (except an instructor, when necessary), shall be allowed to ride on the platform with the motorman on any electric car.

Sixth. On all open cars there shall be attached a guard-rail or device on the side of the car next to the adjoining track, running the entire length of the car, to prevent passengers entering or leaving the car on that side; this guard-rail or device to be of such nature that it may be transferred from one side to the other.

III.

IN THE MATTER OF THE APPLICATION OF THE METROPOLITAN STREET RAILWAY COMPANY AND THE TWENTY-THIRD STREET RAILWAY COMPANY OF THE CITY OF NEW YORK, FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF A CHANGE OF MOTIVE POWER FROM HORSES TO AN UNDERGROUND CURRENT OF ELECTRICITY, UPON THE RAILROAD IN TWENTY-THIRD STREET, BETWEEN THE NORTH AND EAST RIVERS.

January 14, 1896.

Application having been made to this Board by the Metropolitan Street Railway Company and the Twenty-third Street Railway Company of New York city, on or about December 30, 1895, for the approval of the Board of a change of motive power from horses to an underground current of electricity, upon the railroad in Twenty-third street, between the North and East rivers, and a hearing having been given on said application on the 14th day of January, 1896, at the rooms of the chamber of commerce, 32 Nassau street, New York city, Henry A. Robinson, counsel, appearing for said application, and no one appearing in opposition thereto; now, after hearing Henry A. Robinson for said application, and after filing due proof of publication of notice of hearings before this Board, and after reading and filing the affidavits of Peter J. Kelly and Frank F. Ogston, and it appearing therefrom that the owners of more than one-half in value of the property bounded on that portion of the railroad with respect to which the change of motive power from horses to an underground current of electricity is proposed, have consented thereto, it is

Ordered, That said application be and it is hereby approved, with the following conditions, which are hereby made a part of this order:

First. This application is granted and accepted subject to the lawful regulations of the local authorities, and subject to such further regulation, as to speed or otherwise, by this Board, as may hereafter seem fit and proper.

Second. Any and all changes in location of tracks, water, sewer or gas pipes, or other underground structures rendered necessary by the construction of the conduit, shall be by agreement with the commissioner of public works and under his direction and supervision, at the expense of said company.

Third. The rail to be laid shall be such as shall be approved by the commissioner of public works of the city of New York.

Fourth. The company shall remove the snow from its tracks and not throw it on either side thereof.

Fifth. Every car shall be equipped with gates on both ends, which shall be closed on the side next to the adjoining track. No person (except an instructor, when necessary), shall be allowed to ride on the platform with the motorman on any electric car.

Sixth. On all open cars there shall be attached a guard on the side of the car next to the adjoining track, running the entire length of the car, to prevent passengers entering or leaving the car on that side; this guard to be of such a nature that it may be transferred from one side to the other.

Seventh. The company shall equip its cars with a safety guard in front of the wheels, coming within an inch of the track, of such construction as to prevent persons being run over in case of falling in front of the cars.

IV.

IN THE MATTER OF THE APPLICATION OF THE METROPOLITAN STREET RAILWAY COMPANY OF THE CITY OF NEW YORK, FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF A CHANGE OF MOTIVE POWER FROM HORSES TO AN UNDERGROUND CURRENT OF ELECTRICITY, UPON THAT PORTION OF ITS RAILROAD UPON LEXINGTON AVENUE BETWEEN ONE HUNDRED AND FIFTH STREET AND THE HARLEM RIVER.

January 14, 1896.

Application having been made to the Board of Railroad Commissioners, by the Metropolitan Street Railway Company of the city of New York, on or about December 30, 1895, for the approval of the Board of a change of motive power from horses to an underground current of electricity, upon that portion of its railroad upon Lexington avenue between One Hundred and Fifth street and the Harlem river, and a hearing having been given on said application on the 14th day of January, 1896, at the rooms of the chamber of commerce, 32 Nassau street, New York city, Henry A. Robinson, counsel, appearing for said application, and no one appearing in opposition thereto; now, after hearing Henry A. Robinson for said application, and after filing due proof of publication of notice of hearing before this Board, and after reading and filing the affidavits of Peter J. Kelly and Frank F. Ogston, and it appearing therefrom that the owners of more than one-half in value of the property bounded on that portion of the railroad with respect to which the change of motive power from horses to an underground current of electricity is proposed, have consented thereto, now, therefore, it is

Ordered, That said application be and it is hereby approved, with the following conditions, which are hereby made a part of this order:

First. This application is granted and accepted subject to the lawful regulations of the local authorities, and subject to such further regulation, as to speed or otherwise, by this Board, as may hereafter seem fit and proper.

Second. Any and all changes in location of tracks, water, sewer or gas pipes, or other underground structures rendered necessary by the construction of the conduit, shall be by agreement with the commissioner of public works and under his direction and supervision, at the expense of said company.

Third. The rail to be laid shall be such as shall be approved by the commissioner of public works of the city of New York.

Fourth. The company shall remove the snow from its tracks and not throw it on either side thereof.

Fifth. Every car shall be equipped with gates on both ends, which shall be closed on the side next to the adjoining track. No person (except an instructor, when necessary), shall be allowed to ride on the platform with the motorman on any electric car.

Sixth. On all open cars there shall be attached a guard on the side of the car next to the adjoining track, running the entire length of the car, to prevent passengers entering or leaving the car on that side; this guard to be of such a nature that it may be transferred from one side to the other.

Seventh. The company shall equip its cars with a safety guard in front of the wheels, coming within an inch of the track, of such construction as to prevent persons being run over in case of falling in front of the cars.

V.

IN THE MATTER OF THE APPLICATION OF THE BALLSTON TERMINAL RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF THE OPERATION OF ITS RAILROAD BY THE OVERHEAD ELECTRICAL TROLLEY SYSTEM OF MOTIVE POWER, UNDER SECTION 100 OF THE RAILROAD LAW.

May 27, 1896.

Application by the Ballston Terminal Railroad Company having been duly made to this Board, on or about May 19, 1896, for the approval of the Board of the operation of its railroad by the overhead electrical trolley system of motive power, and it appearing that the articles of association of said company contain a provision that its railroad shall be operated by electricity, and it appearing that this Board, on May 12, 1896, granted to said com-

pany the certificate required under section 59 of the Railroad Law that public convenience and a necessity require the construction of its railroad, it is

Ordered, That the Board of Railroad Commissioners hereby approves of the operation of the Ballston Terminal Railroad Company by the overhead system of electricity upon the routes as set forth in the articles of association of said company, with the following conditions, which are hereby made a part of this order:

First. This application is granted and accepted subject to the lawful regulations of the local authorities, and subject to such further regulation, as to speed or otherwise, by this Board, as may hereafter seem fit and proper.

Second. The poles from which the wires are to be suspended shall be of such a construction and height as to conform to the requirements of the local authorities.

Third. No motor car shall be run with less than two men to operate it.

Fourth. The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage, induction or otherwise, from interfering with the currents upon the wires of other companies, whether telegraph, telephone or other wires; but this provision is not intended to require that the said company shall construct a double circuit.

Fifth. Every motor car shall be equipped with gates on both ends, which shall be closed on the side next to the adjoining track. No person (except an instructor, when necessary), shall be allowed to ride on the platform with the motorman on any electric car.

Sixth. On all open cars there shall be attached a guard-rail or device on the side of the car next to the adjoining track, running the entire length of the car, to prevent passengers entering or leaving the car on that side; this guard-rail or device to be of such a nature that it may be transferred from one side to the other.

VI.

IN THE MATTER OF THE APPLICATION OF THE PLATTSBURGH TRACTION COMPANY, UNDER SECTION 100 OF THE RAILROAD LAW, FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF THE OPERATION OF ITS RAILROAD BY THE OVERHEAD ELECTRICAL TROLLEY SYSTEM OF MOTIVE POWER.

June 22, 1896.

Application by the Plattsburgh Traction Company having been duly made to this Board on or about June 17, 1896, for the approval

of the Board of the operation of its railroad by the overhead electrical trolley system of motive power, and it appearing that the articles of association of said company contain a provision that its railroad may be operated by the overhead trolley system of electricity, and it appearing that this Board, on May 12, 1896, granted to said company the certificate required under section 59 of the Railroad Law that public convenience and a necessity require the construction of its railroad, it is

Ordered, That the Board of Railroad Commissioners approve and it does hereby approve of the operation of the railroad of the Plattsburgh Traction Company by the overhead trolley system of electricity upon the routes as set forth in the copy of the articles of association of said company on file in this office, with the following conditions, which are hereby made a part of this order:

First. This application is granted and accepted subject to the lawful regulations of the local authorities, and subject to such further regulation, as to speed or otherwise, by this Board as may hereafter seem fit and proper.

Second. The poles from which the wires are to be suspended shall be of such construction and height as to conform to the requirements of the local authorities.

Third. No motor car shall be run with less than two men to operate it.

Fourth. The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage, induction or otherwise, from interfering with the currents upon the wires of other companies, whether telegraph, telephone or other wires; but this provision is not intended to require that the said company shall construct a double circuit.

Fifth. Every motor car shall be equipped with gates on both ends, which shall be closed on the side next to the adjoining track. No person (except an instructor, when necessary) shall be allowed to ride on the platform with the motorman on any electric car.

Sixth. On all open cars there shall be attached a guard-rail or device on the side of the car next to the adjoining track, running the entire length of the car, to prevent passengers entering or leaving the car on that side; this guard-rail or device to be of such a nature that it may be transferred from one side to the other.

VII.

IN THE MATTER OF THE APPLICATION OF THE PATCHOGUE AND PORT JEFFERSON TRACTION COMPANY, UNDER SECTION 100 OF THE RAILROAD LAW, FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF THE OPERATION OF ITS RAILROAD BY THE OVERHEAD ELECTRICAL TROLLEY SYSTEM OF MOTIVE POWER.

June 30, 1896.

Application by the Patchogue and Port Jefferson Traction Company having been duly made to this Board on or about June 26, 1896, for the approval of the Board of the operation of its railroad by the overhead electrical trolley system of motive power, and it appearing that the articles of association of said company contain a provision that its railroad is to be operated by electricity, and it appearing that this Board, on June 2, 1896, granted to said company the certificate required under section 59 of the Railroad Law that public convenience and a necessity require the construction of its railroad, it is

Ordered, That the Board of Railroad Commissioners approve and it does hereby approve of the operation of the railroad of the Patchogue and Port Jefferson Traction Company by the overhead trolley system of electricity upon the routes set forth in the copy of the articles of association of said company on file in this office, with the following conditions which are hereby made a part of this order:

First. This application is granted and accepted subject to the lawful regulations of the local authorities, and subject to such further regulation, as to speed or otherwise, by this Board as may hereafter seem fit and proper.

Second. The poles from which the wires are to be suspended shall be of such construction and height as to conform to the requirements of the local authorities.

Third. No motor car shall be run with less than two men to operate it.

Fourth. The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage, induction or otherwise, from interfering with the currents upon the wires of other companies, whether telegraph, telephone or other wires; but this provision is not intended to require that the said company shall construct a double circuit.

Fifth. Every motor car shall be equipped with gates on both ends, which shall be closed on the side next to the adjoining track. No person (except an instructor, when necessary) shall be allowed to ride on the platform with the motorman on any electric car.

Sixth. On all open cars there shall be attached a guard-rail or device on the side of the car next to the adjoining track, running the entire length of the car, to prevent passengers entering or leaving the car on that side; this guard-rail or device to be of such a nature that it may be transferred from one side to the other.

VIII.

IN THE MATTER OF THE APPLICATION OF THE THIRD AVENUE RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF THE OPERATION OF A RAILROAD EXTENSION ON KINGSBRIDGE ROAD AND OTHER STREETS IN NEW YORK CITY, BY THE OVERHEAD ELECTRICAL TROLLEY SYSTEM OF MOTIVE POWER FOR A PERIOD OF TEN YEARS.

September 28, 1896.

Application having been duly made to this Board by the Third Avenue Railroad Company on or about July 28, 1896, for its approval of the operation of that portion of the applicant's railroad in New York city upon the following streets and avenues, viz.:

From the junction of Kingsbridge road or Broadway and West One Hundred and Sixty-second street, connecting there by suitable curves, switches and appliances with the railroad of the applicant upon Amsterdam avenue; running thence northerly and northeasterly through and along Kingsbridge road or Broadway to and across the proposed new bridge over the ship canal; thence northerly through and along Kingsbridge road or Broadway from the proposed new bridge over the ship canal to and across the bridge over Spuyten Duyvil creek at Broadway; thence northerly from the bridge over Spuyten Duyvil creek at Broadway through and along Broadway to the city line. Also from the junction of Kingsbridge road or Broadway and Riverdale avenue, running thence northwesterly and northerly through, upon and along Riverdale avenue to the city line. Also from One Hundred and Sixty-second street as projected, along Eleventh avenue or Boulevard to the junction of Kingsbridge road or Broadway at or near One Hundred and Sixty-ninth street, with all the necessary connections, switches, turnouts, crossovers, sidings, turntables and suitable stands for the convenient working of said road, and for the accommodation of the applicant's cars which may run over the same, by the overhead electrical trolley system for a period of ten years, and hearing having been given of said ap-

plication on August 29 and September 21 and 22, 1896, at the rooms of the Chamber of Commerce in New York city, Hoadly, Lauterbach & Johnson, counsel, appearing for the application; William F. Sheehan, H. A. Robinson and Adam Frank, counsel, and Albert Stetson, appearing in opposition; now, after hearing said Hoadly, Lauterbach & Johnson for said application, and William F. Sheehan, H. A. Robinson, Adam Frank and Albert Stetson in opposition, and after filing due proof of publication of notice of hearing before this Board and due proof of the consent of the local authorities to such operation for such period subject to the approval of this Board, it is

Ordered, That said application be and the same is hereby granted, upon the following conditions:

First. This application is granted and accepted subject to the lawful regulations of the local authorities, and subject to such further regulation, as to speed or otherwise, by this Board as may hereafter seem fit and proper.

Second. The poles from which the wires are to be suspended shall be of such construction and height as to conform to the requirements of the local authorities.

Third. No motor car shall be run with less than two men to operate it.

Fourth. The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage, induction or otherwise, from interfering with the currents upon the wires of other companies, whether telegraph, telephone or other wires; but this provision is not intended to require that the said company shall construct a double circuit.

Fifth. Every motor car shall be equipped with gates on both ends, which shall be closed on the side next to the adjoining track.

Sixth. On all open cars there shall be attached a guard-rail or device on the side of the car next to the adjoining track, running the entire length of the car, to prevent passengers entering or leaving the car on that side.

APPLICATIONS

FOR

INCREASE OF CAPITAL STOCK.

I.

IN THE MATTER OF THE APPLICATION OF THE AUBURN CITY RAILWAY COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF AN INCREASE OF ITS CAPITAL STOCK FROM \$50,000 TO \$250,000.

October 15, 1895.

Application having been made to the Board of Railroad Commissioners by the Auburn City Railway Company, on or about October 14, 1895, for the approval of the Board of an increase of its capital stock from \$50,000 to \$250,000, and certificates of the proceedings of the stockholders' meeting having been submitted to the Board, as required by the Stock Corporation Law, with proof of the publication of the notice of such meeting, together with the affidavit of Clifford D. Beebe, as to the purposes to which the proposed increase is to be devoted, it is

Ordered, That the increase of the capital stock of the Auburn City Railway Company from \$50,000 to \$250,000 be and the same is hereby approved, and that the indorsement of such approval shall be made upon the certificates of the stockholders' meeting, according to the provisions of the Stock Corporation Law.

II.

IN THE MATTER OF THE APPLICATION OF THE TERMINAL RAILWAY OF BUFFALO FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF AN INCREASE OF ITS CAPITAL STOCK FROM \$500,000 TO \$1,000,000.

December 10, 1895.

Application having been made to the Board of Railroad Commissioners by the Terminal Railway of Buffalo, for the approval

of the Board of an increase of the capital stock of said company from \$500,000 to \$1,000,000, and certificates of the proceedings of the stockholders' meeting having been submitted to the Board, as required by the Stock Corporation Law, with proof of the publication of the notice of such meeting, together with the affidavits of J. J. Albright and W. J. Wilgus as to the purposes to which the proposed increase is to be applied, therefore, it is

Ordered, That the increase of the capital stock of the Terminal Railway of Buffalo from \$500,000 to \$1,000,000 be and the same is hereby approved, and that the indorsement of such approval shall be made upon the certificates of the stockholders' meeting, according to the provisions of the Stock Corporation Law.

III.

IN THE MATTER OF THE APPLICATION OF THE BINGHAMTON, LESTERSHIRE AND UNION RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF AN INCREASE OF ITS CAPITAL STOCK FROM \$100,000 TO \$250,000.

February 4, 1896.

Application having been made to the Board of Railroad Commissioners by the Binghamton, Lestershire and Union Railroad Company, on or about January 20, 1896, for the approval of the Board of an increase of its capital stock from \$100,000 to \$250,000, and certificates of the proceedings of the stockholders' meeting having been submitted to the Board, as required by the Stock Corporation Law, with proof of the publication of the notice of such meeting, together with the affidavits of J. P. E. Clark and A. K. Harvey, as to the purposes to which the proposed increase is to be applied, it is

Ordered, That the increase of the capital stock of the Binghamton, Lestershire and Union Railroad Company from \$100,000 to \$250,000 be and the same is hereby approved, and that the indorsement of such approval shall be made upon the certificates of the stockholders' meeting, according to the provisions of the Stock Corporation Law.

IV.

IN THE MATTER OF THE APPLICATION OF THE FULTON AND OSWEGO FALLS STREET RAILWAY COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF AN INCREASE OF ITS CAPITAL STOCK FROM \$15,000 TO \$100,000.

Application having been made to the Board of Railroad Commissioners by the Fulton and Oswego Falls Street Railway Company, for the approval of the Board of an increase of the capital stock of said company from \$15,000 to \$100,000, and certificates of the proceedings of the stockholders' meeting having been submitted to the Board, as required by the Stock Corporation Law, with proof of the publication of the notice of such meeting, together with the affidavits of George N. Burt and F. E. Pritchard, as to the purposes to which the proposed increase is to be applied, it is

Ordered, That the increase of the capital stock of the Fulton and Oswego Falls Street Railway Company from \$15,000 to \$100,000 be and the same is hereby approved, and that the indorsement of such approval shall be made upon the certificates of the stockholders' meeting, according to the provisions of the Stock Corporation Law.

V.

IN THE MATTER OF THE APPLICATION OF THE OSWEGO STREET RAILWAY COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF AN INCREASE OF ITS CAPITAL STOCK FROM \$125,000 TO \$200,000.

March 4, 1896.

Application having been made to the Board of Railroad Commissioners by the Oswego Street Railway Company, on or about October 15, 1895, for the approval of the Board of an increase of its capital stock from \$125,000 to \$200,000, and certificates of the proceedings of the stockholders' meeting having been submitted to the Board, as required by the Stock Corporation Law, with proof of the publication of the notice of such meeting, together with the affidavits of George N. Burt and F. E. Pritchard, as to the purposes to which the proposed increase is to be devoted, it is

Ordered, That the increase of the capital stock of the Oswego Street Railway Company from \$125,000 to \$200,000 be and the same is hereby approved, and that the indorsement of such ap-

proval shall be made upon the certificates of the stockholders' meeting, according to the provisions of the Stock Corporation Law.

VI.

IN THE MATTER OF THE APPLICATION OF THE SYRACUSE AND ONEIDA LAKE ELECTRIC RAILWAY COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF AN INCREASE OF ITS CAPITAL STOCK FROM \$300,000 TO \$500,000.

March 24, 1896.

Application having been made to the Board of Railroad Commissioners by the Syracuse and Oneida Lake Electric Railway Company, on or about February 14, 1896, for the approval of the Board of an increase of its capital stock from \$300,000 to \$500,000, and certificates of the proceedings of the stockholders' meeting having been submitted to the Board, as required by the Stock Corporation Law, with proof of the publication of the notice of such meeting, together with the affidavit of William S. Farrington as to the purposes to which the proposed increase is to be devoted, and after hearing evidence on the same subject, it is

Ordered, That the increase of the capital stock of the Syracuse and Oneida Lake Electric Railway Company from \$300,000 to \$500,000 be, and the same is hereby approved, and that the indorsement of such approval shall be made upon the certificates of the stockholders' meeting according to the provisions of the Stock Corporation Law.

VII.

IN THE MATTER OF THE APPLICATION OF THE ALBANY RAILWAY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF AN INCREASE OF ITS CAPITAL STOCK FROM \$1,500,000 TO \$2,000,000.

March 24, 1896.

Application having been made to the Board of Railroad Commissioners by the Albany Railway, on or about March 24, 1896, for the approval of the Board of an increase of its capital stock, from \$1,500,000 to \$2,000,000, and certificates of the proceedings of the stockholders' meeting having been submitted to the Board as required by the Stock Corporation Law, with proof of the

publication of the notice of such meeting, together with the affidavits of John W. McNamara and Edgar S. Fassett as to the purposes to which the proposed increase is to be applied, and after hearing evidence on the same subject, it is .

Ordered, That the increase of the capital stock of the Albany Railway, from \$1,500,000 to \$2,000,000 be, and the same is hereby approved, and that the indorsement of such approval shall be made upon the certificates of the stockholders' meeting, according to the provisions of the Stock Corporation Law.

VIII.

IN THE MATTER OF THE APPLICATION OF THE WATKINS AND HAVANA RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF AN INCREASE OF ITS CAPITAL STOCK FROM \$50,000 TO \$300,000.

April 21, 1896.

Application having been made to the Board of Railroad Commissioners by the Watkins and Havana Railroad Company, on or about April 6, 1896, for the approval of the Board of an increase of its capital stock, from \$50,000 to \$300,000, and certificates of the proceedings of the stockholders' meeting having been submitted to the Board as required by the Stock Corporation Law, with proof of the publication of the notice of such meeting, together with the affidavits of Collins A. Hathaway, Mordecai Rickey and Charles H. Baldwin, as to the purposes to which the proposed increase is to be devoted, it is

Ordered, That the increase of the capital stock of the Watkins and Havana Railroad Company, from \$50,000 to \$300,000 be, and the same is hereby approved, and that the indorsement of such approval shall be made upon the certificates of the stockholders' meeting, according to the provisions of the Stock Corporation Law.

IX.

IN THE MATTER OF THE APPLICATION OF THE COHOES CITY RAILWAY COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF AN INCREASE OF ITS CAPITAL STOCK FROM \$50,000 TO \$70,000.

May 6, 1896.

Application having been made to the Board of Railroad Commissioners by the Cohoes City Railway Company on or about May

2, 1896, for the approval of the Board of an increase of its capital stock from \$50,000 to \$70,000 and certificates of the proceedings of the stockholders' meeting having been submitted to the Board as required by the Stock Corporation Law, with proof of the publication of the notice of such meeting, together with the affidavit of Urban Weldon as to the purposes to which the proposed increase is to be devoted, it is

Ordered, That the increase of the capital stock of the Cohoes City Railway Company from \$50,000 to \$70,000 be and the same is hereby approved, and that the indorsement of such approval shall be made upon the certificates of the stockholders' meeting, according to the provisions of the Stock Corporation Law.

X.

IN THE MATTER OF THE APPLICATION OF THE LEWISTON AND YOUNGSTOWN FRONTIER RAILWAY COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF AN INCREASE OF ITS CAPITAL STOCK FROM \$60,000 TO \$150,000.

May 19, 1896.

Application having been made to the Board of Railroad Commissioners by the Lewiston and Youngstown Frontier Railway Company on or about May 13, 1896, for the approval of the Board of an increase of its capital stock from \$60,000 to \$150,000, and certificates of the proceedings of the stockholders' meeting having been submitted to the Board as required by the Stock Corporation Law, with proof of the publication of the notice of such meeting, together with the affidavit of Paul Voorhees as to the purposes to which the proposed increase is to be devoted, it is

Ordered, That the increase of the capital stock of the Lewiston and Youngstown Frontier Railway Company from \$60,000 to \$150,000, be and the same is hereby approved, and that the indorsement of such approval shall be made upon the certificates of the stockholders' meeting, according to the provisions of the Stock Corporation Law.

XI.

IN THE MATTER OF THE APPLICATION OF THE AUBURN CITY RAILWAY COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF AN INCREASE OF ITS CAPITAL STOCK FROM \$250,000 TO \$300,000.

May 19, 1896.

Application having been made to the Board of Railroad Commissioners by the Auburn City Railway Company on or about May 19, 1896, for the approval of the Board of an increase of its capital stock from \$250,000 to \$300,000, and certificates of the proceedings of the stockholders' meeting having been submitted to the Board as required by the Stock Corporation Law, with proof of the publication of the notice of such meeting, together with the affidavit of Clifford D. Beebe as to the purposes to which the proposed increase is to be devoted, it is

Ordered, That the increase of the capital stock of the Auburn City Railway Company from \$250,000 to \$300,000, be and the same is hereby approved, and that the indorsement of such approval shall be made upon the certificates of the stockholders' meeting, according to the provisions of the Stock Corporation Law.

XII.

IN THE MATTER OF THE APPLICATION OF THE JAMESTOWN AND LAKE ERIE RAILWAY COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF AN INCREASE OF ITS CAPITAL STOCK FROM \$250,000 TO \$350,000.

June 2, 1896.

Application having been made to the Board of Railroad Commissioners by the Jamestown and Lake Erie Railway Company on or about May 26, 1896, for the approval of the Board of an increase of its capital stock from \$250,000 to \$350,000, and certificates of the proceedings of the stockholders' meeting having been submitted to the Board as required by the Stock Corporation Law, with proof of the publication of the notice of such meeting, together with the affidavits of William M. Barnum and Frank Nearing as to the purposes to which the proposed increase is to be devoted, it is

Ordered, That the increase of the capital stock of the Jamestown and Lake Erie Railway Company from \$250,000 to \$350,000, be and the same is hereby approved, and that the indorsement of

such approval shall be made upon the certificates of the stockholders' meeting, according to the provisions of the Stock Corporation Law.

XIII.

IN THE MATTER OF THE APPLICATION OF THE HAMBURG RAILWAY COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF AN INCREASE OF ITS CAPITAL STOCK FROM \$10,000 TO \$50,000.

June 30, 1896.

Application having been made to the Board of Railroad Commissioners by the Hamburg Railway Company, on or about June 29, 1896, for the approval of the Board of an increase of its capital stock from \$10,000 to \$50,000, and certificates of the proceedings of the stockholders' meeting having been submitted to the Board as required by the Stock Corporation Law, with proof of the publication of the notice of such meeting, together with proof of the purposes to which the proposed increase is to be devoted; it is

Ordered, That the increase of the capital stock of the Hamburg Railway Company from \$10,000 to \$50,000 be and the same is hereby approved and that the indorsement of such approval shall be made upon the certificates of the stockholders' meeting, according to the provisions of the Stock Corporation Law.

XIV.

IN THE MATTER OF THE APPLICATION OF THE METROPOLITAN STREET RAILWAY COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF AN INCREASE OF ITS CAPITAL STOCK FROM \$16,500,000 TO \$30,000,000.

July 1, 1896.

Application having been made to the Board of Railroad Commissioners by the Metropolitan Street Railway Company, on or about July 1, 1896, for the approval of the Board of an increase of its capital stock from \$16,500,000 to \$30,000,000, and certificates of the proceedings of the stockholders' meeting having been submitted to the Board as required by the Stock Corporation Law, with proof of the publication of the notice of such meeting, together with the affidavits of Daniel B. Hasbrouck and Charles E.

Warren as to the purposes to which the proposed increase is to be devoted, it is

Ordered, That the increase of the capital stock of the Metropolitan Street Railway Company from \$16,500,000 to \$30,000,000 be and the same is hereby approved, and that the indorsement of such approval shall be made upon the certificates of the stockholders' meeting, according to the provisions of the Stock Corporation Law.

XV.

IN THE MATTER OF THE APPLICATION OF THE THIRD AVENUE RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF AN INCREASE OF ITS CAPITAL STOCK FROM \$9,000,000 TO \$12,000,000.

August 29, 1896.

Application having been made to the Board of Railroad Commissioners by the Third Avenue Railroad Company, on or about August 29, 1896, for the approval of the Board of an increase of its capital stock from \$9,000,000 to \$12,000,000, and certificates of the proceedings of the stockholders' meeting having been submitted to the Board as required by the Stock Corporation Law, with proof of the publication of the notice of such meeting, together with the affidavit of John Beaver as to the purposes to which the proposed increase is to be devoted, it is

Ordered, That the increase of the capital stock of the Third Avenue Railroad Company from \$9,000,000 to \$12,000,000 be and the same is hereby approved, and that the indorsement of such approval shall be made upon the certificates of the stockholders' meeting, according to the provisions of the Stock Corporation Law.

XVI.

IN THE MATTER OF THE APPLICATION OF THE HUDSON RIVER AND WASHINGTON COUNTY MIDLAND RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF AN INCREASE OF THE CAPITAL STOCK OF SAID COMPANY FROM \$125,000 TO \$150,000.

November 9, 1896.

This application was filed with the Board on November 6, 1896. The Hudson River and Washington County Midland Railroad

Company applied to this Board for and received, under date of November 19, 1895, a certificate that public convenience and necessity required the construction of its railroad. There is nothing before the Board to indicate that anything has been done toward construction or that any of the present capital stock of the company has been used for that purpose.

The Board, therefore, can not approve of the increase applied for.

Applications for a Certificate under Section 59 of the Railroad Law.

I.

IN THE MATTER OF THE APPLICATION OF THE LONG LAKE RAILROAD
COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD
LAW.

November 11, 1895.

The applicant herein proposes to build, maintain and operate a railroad from the hamlet or village of Axton to the outlet at the northern extremity of Long lake, which places will be its termini. The length of such proposed railroad is about ten miles, and it would be located partly in Franklin and partly in Hamilton counties. The company's certificate of incorporation is dated April 17, 1895. It was filed and recorded in the office of the Secretary of State on the 3d of July. The two points named in the certificate of incorporation as the termini of the proposed road are not at present connected by rail with any other point. The village of Axton, however, is one of the termini of the line of the Raquette River Railroad. This latter line is not constructed. Its relation to the applicant's enterprise necessarily receives attention in considering this application. The Raquette River Railroad Company made application to this Board for a certificate under section 59, on the 27th day of May, 1895. The application was granted and a certificate issued on the 25th day of June of this year. The railroad to be built by the Raquette River Company has as its termini the hamlet or village at which Tupper Lake post-office is located and the hamlet or village of Axton. The distance between these two points is about ten miles. The incorporators of the Raquette River Company are the same as those of the Long Lake Company. The two certificates of incorporation bear the same date. The directors are the same in both companies, but the certificate of the Long Lake Company was not filed until the 3d of July, as has been stated. Thus the existence of the Long Lake Company was not disclosed to the public nor to this Board until after the Board had given a certificate, under section 59, to the Raquette River Company. The Raquette River Company, therefore, appeared before the Board, proposing to con-

struct ten miles only of railroad in the Adirondack country. Such an application did not present the questions arising when it is proposed to penetrate farther into the forest. This second application raises, in their broader aspects and relations, questions touching the general policy of the State as to the preservation of the Adirondack domain. This view is emphasized by the fact that the Raquette River Company, having obtained the certificate for which it was urgent at the time of its application, has not begun construction. It can not be believed that the Raquette River Company finds the outlook different from what it anticipated or that it is surprised at the advent of the Long Lake Company. The conclusion is unavoidable that neither company appeared before the board in its true character, and that the original intent of their incorporators was to build at least twenty miles of railroad. Nevertheless, their first appearance before the Board put them distinctly upon record as desiring to build but ten miles. These considerations would, in any event, incline the Board to withhold its certificate from this second applicant. In the present instance that inclination is confirmed by the nature of the proof submitted to the Board and by the issues raised upon the hearing.

In the first place, the proof that there is a necessity for the construction of applicant's railroad is far from strong. The country to be traversed is a wilderness; the places named as termini are villages or hamlets of most meager numbers. The interests or industries to be touched by the construction of the road are few and unimportant. Upon this point the evidence, although the witnesses were most willing to make it seem of consequence, is very slender. Even were the Board's action upon this application not influenced by a belief that such railroad construction is of more than doubtful propriety or utility in the Adirondacks, the evidence submitted would not warrant granting a certificate.

In the second place, the history of the incorporation of this company, and the fact that a prior application which has been granted has not been followed by construction, leaves the Board in doubt as to whether the actual character of these successive applications has been disclosed. The suppression or withholding of all mention or suggestion of the second application until the first was granted does not commend itself as a method of approach to this Board, or to any medium through which the State grants privileges or powers. If the purposes behind these enterprises must be concealed the Board can not rightfully do otherwise than deny the application. If there is no occasion for concealment it must be admitted that the manner of presenting the applications is not calculated to dissipate doubt as to their complete and absolute good faith.

The application is, therefore, denied.

This case was appealed, and on December 2, 1896, a decision was handed down by the appellate division of the Supreme Court, Third Department, reversing the decision of the Board and directing that the certificate be issued. The affirmative and dissenting opinions will be found elsewhere in this volume.

II.

IN THE MATTER OF THE APPLICATION OF THE NEW YORK AND PENNSYLVANIA RAILROAD COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

November 11, 1895.

On reading and filing the application of the New York and Pennsylvania Railroad Company for a certificate, under section 59 of the Railroad Law, dated August 19, 1895, by William Cobb, president, the articles of association of said company and due proof of publication thereof, an amended application and amended articles of association with due proof of publication thereof, filed with this Board October 15, 1895, a map showing the proposed route of said railroad, and due proof of the publication of notice of hearing before this Board, and after due consideration of the evidence taken herein, and after reading and filing affidavits herein, and after hearing I. W. Near and John B. Stanchfield, counsel for said petitioners, and James H. Stevens, counsel for the New York, Lake Erie and Western Railroad Company, in opposition, and it appearing that the conditions of section 59 have been complied with, and that public convenience and a necessity require the construction of such railroad, it is

Ordered, That said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that the conditions of said section as to publication of the articles of association of said company have been complied with, and that public convenience and a necessity require the construction of said railroad, as proposed in said amended articles of association and as shown upon said map.

III.

IN THE MATTER OF THE APPLICATION OF THE LIVONIA AND LAKE CONESUS RAILROAD COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

November 12, 1895.

On reading and filing the application of the Livonia and Lake Conesus Railroad Company for a certificate, under section 59 of the Railroad Law, by Harry B. R. Potter, president, the articles of association of said company and due proof of publication thereof, a map showing the proposed route of said railroad, and due proof of the publication of notice of hearing before this Board, and after reading and filing affidavits herein, and after hearing John W. Boyle, counsel, for said application, no one appearing in opposition thereto, and it appearing that the conditions of section 59 have been complied with, and that public convenience and a necessity require the construction of said railroad, it is

Ordered, That said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that the conditions of said section as to publication of the articles of association of said company have been complied with, and that public convenience and a necessity require the construction of said railroad, as proposed in said articles of association and as shown upon said map.

IV.

IN THE MATTER OF THE APPLICATION OF THE HUDSON RIVER AND WASHINGTON COUNTY MIDLAND RAILROAD COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

November 19, 1895.

On reading and filing the application of the Hudson River and Washington County Midland Railroad Company for a certificate under section 59 of the Railroad Law, dated September 30, 1895, the articles of association of said company and due proof of publication thereof, a map showing the proposed route of said railroad, and due proof of the publication of notice of hearing before this Board, and after hearing evidence and reading and filing affidavits herein, and after hearing Pratt & Logan, counsel for said application, and F. B. Delehanty, counsel, in opposition thereto,

and it appearing that the conditions of section 59 have been complied with, and that public convenience and a necessity require the construction of said railroad, it is

Ordered, That said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that the conditions of said section have been complied with and that public convenience and a necessity require the construction of said railroad as proposed in said articles of association and as shown upon said map.

V.

IN THE MATTER OF THE APPLICATION OF THE LEWISTON AND YOUNGSTOWN FRONTIER RAILWAY COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

November 19, 1895.

On reading and filing the application of the Lewiston and Youngstown Frontier Railway Company for a certificate under section 59 of the Railroad Law, dated October 23, 1895, by Karl Evans, secretary, the articles of association of said company and due proof of publication thereof, a map showing the proposed route of said railroad, and due proof of the publication of notice of hearing before this Board, and after reading and filing affidavits herein, and after hearing John G. Milburn, counsel, for said application, no one appearing in opposition thereto, and it appearing that the conditions of section 59 have been complied with and that public convenience and a necessity require the construction of said railroad, it is

Ordered, That said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that the conditions of said section have been complied with and that public convenience and a necessity require the construction of said railroad as proposed in said articles of association and as shown upon said map.

VI.

IN THE MATTER OF THE APPLICATION OF THE LeROY AND NORTHERN RAILROAD COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

December 10, 1895.

Ordered, That the said application be and it is hereby denied.

By the Board,

CHARLES R. DEFREEST,

Secretary.

MEMORANDUM IN ABOVE-ENTITLED MATTER.

Appearances:

M. H. Briggs for the application.

George F. Brownell and Charles Nellany, representing the New York, Lake Erie and Western Railroad, and E. Van Etten, representing the New York Central and Hudson River Railroad, in opposition.

This is an application under section 59 of the Railroad Law for a certificate that public convenience and necessity require the construction of the railroad named in the articles of association herein. Several hearings were had thereon, one at LeRoy and others at the office of the Board in Albany, and a personal inspection made by two members of the Board of the proposed route and the surrounding territory.

The kind of road proposed to be built is one of standard gauge, operated in part by steam power and in part by electric power; its length is three miles and its proposed termini are the LeRoy salt works, the LeRoy steam mill and Keeney's stone quarry, all situated at LeRoy in the county of Genesee. LeRoy is a village of about 2,500 inhabitants. There are at LeRoy, running through it, three steam railroads, viz.: The New York Central and Hudson River, the Erie and the Buffalo, Rochester and Pittsburg. The proposed road, as shown by the maps and plans on file with this Board, consists of what may be called a main line with two stems, the entire length of the line and stems being only three miles. Its location in relation to the three existing systems already mentioned and the fact that it will not reach any point not now within less than a mile of the existing roads, leads to the conclusion that all proper purposes to be served by its construction can be reached better by the ordinary method of building a siding from one or all of the existing lines; such construction, as appears from the evidence, being entirely feasible. The allegations as to the negotiations had with the Erie and the New York Central Railroad Companies are contro-

verted by the letter of President Thomas of the Erie and the affidavit of Superintendent Van Etten of the New York Central, and it does not appear satisfactorily from the evidence before the Board that any sufficient effort has been made to induce one or all of the existing systems to build such sidings or that the existing companies have refused to so build upon the usual terms. Moreover, it does appear from the testimony offered on behalf of the applicant, that the proposed road, if constructed, would, if possible, be used to compel the existing companies to give special rates to the applicant. The testimony upon this point is as follows (testimony of Calvin N. Keeney):

Q. How many switches have you in there now from the three roads? A. We have one from the Central, a coal switch and a salt switch from the Erie, and two loading switches from the Buffalo, Rochester and Pittsburg. * * *

Q. It would not be physically impossible to connect all those switches there, would it, so as to have them interchange right there? A. A system of switches could be devised that would encircle the whole plant (salt works) just as we have planned for the LeRoy and Northern. * * *

Q. Does Mr. Keeney propose, when this road is constructed, to get this switching done for nothing? A. No, sir; the LeRoy and Northern will do all the switching.

Q. What do the LeRoy and Northern propose to charge you for doing this? A. The LeRoy and Northern * * * will take this business the same as any other railroad would take it from the salt works or from any other parties along the line and deliver it to the line that is to send it through to destination.

Q. Then it won't cost you anything? A. It won't cost the salt company anything; no, sir.

Q. Where does the LeRoy and Northern propose to get its revenue from? A. They get their revenue in their part of the through freight rate, whatever the other roads will allow them for doing this business.

Q. Has there ever been any organized effort to get these side tracks from the various railroads to these quarries and various industries that have been talked of here? A. I don't know. * * *

Q. And the switching from the quarries is to be—so far as the revenue is concerned—is to be gathered in in the same way; that is, the quarries, it won't cost them anything but it will cost the railroad that gets the freight? A. Certainly; the LeRoy and Northern will pull this freight out and get what they can for it; it is not expected they will get very much for that because the stone business is handled very close any way; we don't expect to get much out of the stone.

Q. Was the proposition ever submitted to representatives of the various roads as to their willingness to construct a switch up to the quarry; you say you had some talk with one of the companies? A. In connection with the building of this road.

Q. But you have not had with the other companies? A. No, sir; because we did not wish to tie ourselves up to any one company.

Q. But the proposition never has been submitted; that the three lines that now exist should take hold of the matter? A. No, sir.

Q. There is no physical impossibility there, is there, that prevents it; if they are all willing to connect it, could it be done; there is nothing to prevent it? A. It would be possible to construct switches that would be connected, but —

Q. Forty feet there would connect the Buffalo, Rochester and Pittsburg, and the Erie and the Central, wouldn't it, where they come out of the salt works? A. It would by going over Erie ground.

Q. They are as close as that together, aren't they, forty feet? A. I should think so.

Q. Do I understand you have not made any estimate as to the probable revenue from this road? A. Only as we can; we don't know what our revenue is to be; we don't know what these roads will be willing to allow us on the business we turn over to them; we simply take it for granted that they will be willing to treat us fairly and give us enough more than the cost of doing the business to make it an object to keep the road in operation.

Q. Give it to you out of the present rate? A. Allow it out of the through rate; yes, sir.

Q. That is, you expect to get part of the revenue that the present railroads are now earning? A. Yes, sir. * * *

Q. That is, there are railroads enough here to carry all the freight you can offer? A. Yes, sir; any one of them can carry more than we can offer.

(Testimony of Charles F. Prentice):

Q. Of course, if there is not business enough there to maintain those switches under the usual arrangement, they will say right off, 'You are trying to construct a railroad which you are going to make these other three roads pay for?' A. It is very doubtful if any of those roads, even one of them, would take that track and handle those cars that distance — it is nearly half a mile — for what there would be in it; that is, I have understood there isn't; it ought to be worth something, if this road is an incorporated road, to handle that stuff, a little something, we wouldn't expect to get anything more.

Q. Who would you expect to pay that? A. We would expect,

if we got a charter for this road, that the LeRoy and Northern would get paid for delivering that stuff to other roads.

Q. From other roads, or from the shippers? A. The other roads could well afford to pay them, I should judge, for carrying that freight half a mile and delivering it.

Q. Now you can deliver to any one of the three roads you desire? A. Yes; by wagon.

Q. There is a connection here between the two roads — A. Yes, a switching charge; they switch back and forth; if a car comes in and it is desired to go on another road, why a switching charge —

The Board can not recognize that such a proposition is a sufficient ground or even a legitimate ground for constructing such a new road as is here proposed. If such an application as this were granted it is difficult to tell what or how many similar applications might follow it. It is also clear from the evidence that the neighborhood in which this proposed road is to be constructed is already, or can be, well supplied in the ordinary way with sidings and similar facilities, especially the salt works. All that has been said is strengthened by the fact, plainly stated in the testimony, that each of the existing roads is abundantly able to take all the freight that can now be given to it at LeRoy. If it is the additional trackage alone that is desired by the parties making this application, it would seem to the Board that that can be secured by proceedings under the provisions of section 20 of the Railroad Law.

After a personal inspection of the points in question, and after careful examination and due consideration of the evidence submitted herein, the Board is of the opinion that public convenience and necessity do not require the construction of the road proposed in the articles of association herein. It, therefore, directs that an order be entered to that effect. This order, however, is without prejudice to a future application if it appears that the existing companies refuse to afford proper side track and switching accommodations upon the usual terms, after due application therefor.

VII.

IN THE MATTER OF THE APPLICATION OF THE SYRACUSE AND ONEIDA
LAKE ELECTRIC RAILWAY COMPANY FOR A CERTIFICATE UNDER
SECTION 59 OF THE RAILROAD LAW.

December 23, 1895.

On reading and filing the application of the Syracuse and Oneida Lake Electric Railway Company for a certificate under section 59

of the Railroad Law, dated November 19, 1895, by W. B. Kirk, president, the articles of association of said company and due proof of publication thereof, and due proof of the publication of notice of hearing before this Board, a map showing the proposed route being produced on the hearing, and after consideration of the evidence herein, and after hearing L. L. Waters, counsel, for said application, no one appearing in opposition thereto, and it appearing that the conditions of section 59 of the Railroad Law have been complied with and that public convenience and a necessity require the construction of said railroad, it is

Ordered, That said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that the conditions of said section have been complied with and that public convenience and a necessity require the construction of said railroad as proposed in said articles of association and as shown upon said map.

VIII.

IN THE MATTER OF THE APPLICATION OF THE BUFFALO TRACTION COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

January 21, 1896.

Wilson S. Bissell, Spencer Clinton, Herbert P. Bissell, and Emory P. Close, counsel for the applicant, the Buffalo Traction Company.

John G. Milburn, Box, Norton & Bushnell, W. Caryl Ely, counsel for the Buffalo Railway Company; D. H. McMillan, counsel for protesting property owners on Franklin street; Benjamin H. Williams, counsel, and Mr. Newman, for protesting property owners on Utica street; Louis Stockton for himself and protesting property owners on Delavan avenue; Charles M. Harrington, for protesting property owners on Massachusetts avenue; W. E. Haupt, for protesting property owners on Bouck avenue; F. R. Perkins, for protesting property owners on Linwood avenue; W. H. Love, for protesting property owners on Prospect avenue; Frank N. Loomis, for protesting property owners on Chippewa street, in opposition.

This is an application, under section 59 of the Railroad Law, for a certificate that the Buffalo Traction Company has complied with the requirements of that section by duly publishing its articles of association, and has filed satisfactory proof thereof with this Board, and that public convenience and a necessity

require the construction of its railroad as proposed in such articles. Paragraph fourth of the articles describes the applicant's railroad as a railroad "to be built, maintained and operated from the city line of the city of Buffalo, at the South Park, and from The City Ship canal in the Hamburg turnpike to the city line of the city of Buffalo in O'Neill street, and across the city of Buffalo to the Pine Hill road in the town of Cheektowaga, which places will be its termini, and its length will be sixty-six and six-tenths (66.6) miles."

The question presented to the Board is whether the construction of the railroad thus described is required by public convenience and a necessity. It is important to state the question clearly, for various reasons. In any event, the magnitude of the interests involved in the application entitles it to most careful and serious consideration. But it is notable on other grounds. It is the first occasion upon which there has been a controversy before the Board under section 59, as now amended. Since the section was enacted in 1892, there have been many applications on behalf of steam railroads; some of them strenuously contested. The reasons for its enactment and the principles governing its application to steam roads have been fully declared, so far as the Board was authorized to declare the same in its decisions, and the proper force and meaning of the section, and of the policy of the State as expressed in it, have been set forth with authority by the Supreme Court in the general terms of the second, third and fifth departments. (See *Matter of New Hamburg R. R. Co.*, 76 Hun, 76; *Matter of Amsterdam, Johnstown & Gloversville R. R. Co.*, 86 Hun, 578; *Matter of Depew & Southwestern R. R.*, opinion by Bradley, J., of December 28, 1895, not yet reported.) Justice Herrick, in deciding the matter of the *Amsterdam, Johnstown & Gloversville Railroad Company*, says:

"Prior to the enactment of section 59, chapter 676, Laws of 1892, it was within the power of fifteen or more citizens to form a railroad corporation and to lay its tracks through any section, upon securing from the property owners the necessary right of way. This section effected a change. It was evidently intended to restrict the building of roads not actually needed, in order to protect not only existing railroads, but also citizens from investing in alluring but profitless enterprises. The propriety and necessity of constructing a road was not left to be determined by enterprising but, perhaps, ill-informed or ill-advised citizens, or by those seeking by threats of destructive competition to levy tribute upon existing roads, but was placed in the hands of accredited officers of the State who should act for and in its behalf, in determining whether the interests of the State or of the community immediately affected would be promoted by the building of a road.

Provisions had theretofore been made, to be hereafter referred to, for the correction of abuses in the management of roads already constructed, so that it was no longer necessary to correct evils in the management of existing roads by constructing competing ones. And before a new corporation can construct a road, the corporation must secure from the railroad commissioners their certificate 'that public convenience and necessity require the construction of said railroad.' The corporation applying for such a certificate necessarily holds the affirmative upon that question; it devolves upon it to show that its construction is required by public convenience and necessity. The certificate does not issue to it simply upon its filing its application, as a matter of right, unless evidence is produced before the Board to show that public convenience and necessity require its construction. It is not entitled to it as a matter of right in the event of no one appearing to oppose its application; nor if any one does appear in opposition, is he obliged to prove a negative and convince the Board that public convenience and necessity do not require the construction of the road. The burden of proof is upon it to establish the performance by it of the requirements of the law, and to establish the existence of that condition of affairs which will authorize the State authorities to grant a franchise authorizing it to operate its road in the locality proposed. It is applying for something from the State and it must prove its claim to it under the laws, the same as any person who attempts to establish any other claim or right. * * *

Their determination as to whether they will grant a certificate of public convenience and necessity is necessarily and properly largely a matter of discretion, not an arbitrary discretion, but a discretion enlightened and guided by their experience in the affairs of railroads, the problems of transportation, the needs of the people, together with the special facts brought before them in each particular case. To guide them, where it is claimed existing roads do not afford the necessary facilities, the commissioners may properly take into consideration the means that the law affords to regulate the management of railroad corporations and correct mismanagement and enforce the providing of proper service. * * *

Where there is no railroad in existence in a locality, or when the traffic is so great as not to be properly cared for by one road, or even where there is traffic sufficient to adequately support more than one road, we may say that public convenience and necessity require the construction of another; but where, as in this case, it appears that 'existing roads are abundantly able to transact all business now offered or that is likely to be offered for many years to come,' I do not see how it can be said that public convenience and necessity require the construction of another."

Until 1895 the application of the section was restricted to steam railroads, by the presence in it of a clause reading as follows: "This section shall not apply to street railroads." The Legislature, in amending it at its last session, made no change in the language beyond that of striking out this restrictive clause. It has been argued before the Board that, although the language of the statute remains as before, the powers of the Board by inference are enlarged or modified in such way that the Board now can and should certify that a part of the railroad of the applicant should be constructed, even though it may be the Board's judgment that the proposed railroad, as a whole, is not needed. The Board can not adopt this conclusion. The decisions already referred to uphold the Board's discretion within the limits of the law, but there is no intimation in them to warrant the Board in assuming the possession of implied or inferential powers. The power of the Board to construe statutes is extremely limited. It should, in fact, attempt such a duty only when it can not be avoided. Its duty is to execute the law as expressed. It can not undertake to read into a statute language not put in by the law-makers, especially in such a case as this where the language has already been interpreted by the courts and where it would have been easy for the Legislature, if that body desired to confer new powers upon the Board to do so by slightly varying the language of the section. Section 59 contains no language authorizing the issuing of a certificate except for the construction of a road as "proposed in said articles of association." Justice Bradley, in his opinion in the matter of the application of the Depew and Southwestern Railroad Company, decided December 28, 1895, but not yet reported, says:

"While the creation of a railroad corporation is a right to be exercised in the manner provided by the statute, the right to exercise the power of proceeding to the construction of its proposed railroad is subject to and dependent upon the supervisory consideration of the Board, and its certificate preliminarily made that 'public convenience and necessity requires the construction of said railroad as proposed in said articles of association.' This has reference to the articles of association of some particular company to be mentioned in the certificate. It would not answer the purpose of the statute for the Board to certify merely that public convenience and necessity required the construction of a railroad having the termini mentioned. It is to certify that such convenience and necessity require the construction of the road as proposed in said articles, and the certificate is, apparently, available only to the company having the articles thus mentioned in the certificate." That the section may now be profitably amended in the direction indicated by this

argument, may well be conceded, but the Board must accept it and act under it as it stands.

That duty is less difficult inasmuch as the Board, after many hearings and close and protracted examination of every sort, has reached a decided conclusion as to the merit of the application if treated as a whole, and has also reached a conclusion not less decided as to the merits of each substantial part comprised in it. These conclusions will now be stated in detail, together with an analysis of the facts and reasoning supporting them. The statement is necessarily long, because the Board has thought it to be its duty not merely to pass upon the application as a whole, but to study the different parts of the proposed system in order that no injury should be done any interested party by hasty or inconsiderate action. Such a study involves, first, an examination of the city of Buffalo.

The recent history of the city is well known. So far as it concerns this application it has been presented with fullness, and it certainly discloses a remarkable rate of growth during the past five years. Its population in 1890 was 255,000; now, according to the police census of 1895, it is 335,000; the increase being thirty-one per cent. in five years. It has an area of about forty square miles, the fairly thickly settled portions of the city, however, being only about twenty-three square miles, the remainder being sparsely settled. Main street constitutes a stem or central line, dividing the city, from which numerous other important streets run off, either at right angles or by a method of radiation resembling the shape of a fan or the spokes of a wheel. The principal business centre is upon Main street, between Exchange street and Niagara street. On the west the city is bounded by the waters of the Niagara river and Lake Erie. The centre of population is not far from the centre of the Twelfth ward, in Broadway near Pratt street. The geographical centre is somewhat further east. According to the testimony, there are over 700 miles of streets, over 300 miles of which are paved with asphalt. Many maps and other exhibits were put in evidence before the Board, and they are most valuable in assisting to comprehend the situation. The present street railroad facilities are furnished by two companies, the Buffalo Railway Company and the Crosstown Street Railway Company, both operated under one management, and by the overhead electrical trolley, and having a system of transfers carrying to all points on both companies' lines for a single fare of five cents. This transfer system was inaugurated pursuant to the provisions of a contract between the city and the existing companies under date of January 1, 1892, and applies to all future extensions by those companies. The New York Central Railroad has a belt line encircling the city, running fre-

quent trains stopping at numerous stations, with a five cent fare to all points. The capital stock of the Buffalo Railway Company is \$5,370,500, and its bonded indebtedness \$5,170,256.67, and the capital stock of the Crosstown company is \$2,277,000, and its bonded indebtedness \$2,277,000. The Buffalo Railway, the successor of several existing companies, was incorporated November 22, 1890, and the Crosstown Railway Company, February 1, 1890, and until 1892, both were operated by horse power. The extent of the existing system, its growth in relation to that of the city, and the lines of the entire system, are fully shown in the appendix hereto.

The applicant, the Buffalo Traction Company, was incorporated on the 28th day of October, 1895, as a railroad to be operated by electricity in the city of Buffalo, with a capital stock of \$3,000,000, divided into 30,000 shares, and it proposes to occupy 66.6 miles of streets. (See articles of association in appendix hereto.)

It is, perhaps, natural that the people of Buffalo should believe that the rapid rate of increase during recent years is a better key to the future than the slower growth of the twenty years previous. Like many American cities, its area is extensive, its street mileage is enormous and the improvements and projects of the municipality and of its citizens reach far into the future. This fact may explain why many of its citizens seem to believe that transit facilities are necessary in regions not yet settled, and it is illustrated by the large proportion of comparatively vacant land within the city limits, there being some seventeen or eighteen square miles of the total area of 40 square miles, which, if settled at all, is only sparsely occupied. Of the so-called thickly-settled portions the population is by no means dense when compared with the conditions of life in larger cities. The congestion, so often referred to by witnesses, can not for a moment be compared to the condition of the different lines of travel in New York, Brooklyn and Boston. The degree to which such a city looks forward may be illustrated by the fact that its population, numbering about one-third of a million, has an area of forty square miles in which to expand, while the two and three-quarter millions of people in Paris dwell upon thirty square miles of area, and the population of Manhattan Island, now approaching 2,000,000, dwells upon twenty-two square miles of area. Moreover, Buffalo is not called upon to give transit upon its surface system to any such great floating population as crowds the business thoroughfares of New York and, in lesser degree, of other large cities. The manner of the city's development is probably brought about by the fact that it lies upon the water and that its primary business interests arise from its importance as a point of distribution both by land and by water. Its recent ex-

traordinary growth has been largely due to the development of its facilities for land communication. Several trunk lines have found an entrance to the city during the past ten years, and it has become a most important railroad centre. There are about 650 miles of steam railroad tracks within its limits.

Neither the application nor the city itself can receive proper consideration unless attention is given at the same time to the existing surface railway system. The language of Justice Herrick, already quoted, indicates clearly that existing facilities form an important factor in reaching a determination on such a question as is here presented. Upon this point it is desirable to be explicit. Much of the testimony given before the Commission revealed a belief in the minds of witnesses that the existing system was on trial before the Commission. Such is not the case. The existing system is not in any sense on trial. The Board is not called upon to find that its management is bad, and testimony showing that in some particulars its patrons have not been accommodated as they thought they should be, does not materially assist in arriving at a correct conclusion. The question is whether public convenience and necessity require the additional facilities proposed by this applicant. To show that the existing system is insufficient or that its management has been, in some respects, incompetent, or even exasperating, may be of little avail to promote the cause of the applicant. In the opinion already quoted, Justice Herrick, after citing sections 161 and 162 of the Railroad Law, says: "These provisions of the statute, together with others which I have not quoted, seem to me to afford a remedy for the alleged grievances against the existing roads."

If it could be shown that the existing system well managed and tested to its fullest capacity, was still inadequate, doubtless that fact would be of advantage to the applicant. The Board does not imply or suggest that on the evidence before it, or after examination, the old company is found to be badly managed, or inadequate. On the contrary, its history, in many respects, is that of a vigorous enterprise intelligently conducted and seeking to meet the public needs as the city's rapid growth has brought them forward. Like many other enterprises of this kind, and like many of the enterprises and institutions of this country, it has grown from small and simple beginnings to its present condition of importance. It has more than kept pace with the development of the city. Between 1890 and 1895, the miles of street railway increased from 63.75 to 143, or at the rate of 124 per cent. During the same period the car mileage increased from 3,201,292 to 7,686,150, or at the rate of 156 per cent. Passengers carried in 1890 numbered 16,024,847, while in 1895, their number was 44,964,607, the rate of increase being

180 per cent. The number of cars operated increased during the same period from 93 to 301, or at the rate of 224 per cent. It will be remembered that the increase of population was at the rate of thirty-one per cent. and that this rate was said to be, and is, phenomenal. Furthermore, it has been shown that the cars used have been greatly improved, those formerly employed being in every respect inferior to those of the present day, both in capacity and in all things tending to make them attractive and comfortable for their occupants. This improvement of cars and of all equipment was effected when the motive power of the system was changed from horse power to electricity. The existing transfer system is so freely used by the company's patrons, that of the 45,000,000 people carried during the fiscal year ending June 30, 1895, 12,000,000 were transferred, and as a result, the average fare received from each passenger is 3.53 cents, allowance being made for transfers.

In behalf of the applicant there were offered: the formal petition of the company, proof of publication of the notice of hearing, a map of the proposed route, and affidavits tending to show good faith and financial ability; also the affidavit of Antoine B. DuPont, general manager of the Detroit Citizens' Street Railway Company, to the effect that he has made a careful study of the subject of street railroads in this country, and has made a careful examination upon the ground of the new street railroad system proposed by the Buffalo Traction Company, and that, in his opinion, the proposed system is a public convenience and a necessity. Also, the affidavits of Arthur A. Anderson, general manager and treasurer of the Youngstown (Ohio) Street Railway Company and the Mahoning Valley Street Railway Company; of Samuel Harris, general manager of the Steele Motor Company of the city of Cleveland, and a former street railroad superintendent; of Jere C. Hutchins, vice-president and treasurer of the Detroit Citizens' Street Railway Company; of Jilson J. Coleman, general manager of the Nassau Electric Railroad Company of Brooklyn, and others, all to the same effect. Resolutions of various labor and other organizations, to the number of fifty-nine, favoring such applicant, were offered and received; also twenty-one affidavits by citizens residing in different sections of the city, giving certain statements of fact and their opinion with regard to the necessity of the new system; also some fifty affidavits from people residing in various parts of the city, on the general subject of public convenience and necessity; also petitions favoring such application, alleged to have been signed by 31,804 residents of the city of Buffalo; also an affidavit by Charles W. Ricker, civil engineer, setting forth street railroad statistics, and comparing the systems of other cities with that of Buffalo.

On behalf of the applicant, Thomas B. Clark testified that he was a gasfitter, and a representative of the Central Labor Organization; that in his opinion public convenience and necessity demanded the construction of the road, and stated the action of his organization on the subject, and laid stress on the fact that if the company was allowed to build it would place in the hands of the citizens of Buffalo a chance for 800 or 1,000 men to obtain employment. Upon cross-examination he stated that one of the main reasons for his favoring the new road is the employment it will give to labor, in its construction and the after operation of the road; the other reason being the better facilities he thought would be furnished for street railway transportation.

George A. Ricker, on behalf of the applicant, testified that he was a civil engineer and had been for sixteen years, and resided in Buffalo; was engineer of the Buffalo Traction Company and had the laying out of the road of that company; he testified as to the various lines of the projected road and the territory proposed to be served by them, and those of the existing company, and the territory served by it, and somewhat of the method of operation of the existing lines, and alleged congested condition on lower Main street; that in his opinion public convenience and necessity require the construction of the proposed line. On cross-examination, he testified that the whole system proposed of the new company, from Erie street and Niagara street to Black Rock, was a parallel system to the lines of the old company and within a few hundred feet of them. That the detailed plans as to the crossing of steam railroads by the proposed new road, had not yet been worked out, and, further, as to the alleged paralleling of various other portions of the lines of the existing company.

Rufus H. Choate was also called in behalf of the applicant and testified that he lived in Buffalo and had since 1861; had been most of the time connected with steamship and steamboat lines, for twenty-four years; was president of the South Buffalo Business Men's Association, with a membership of about 100, organized for the improvement of that section of the city which is known as South Buffalo. He stated that he had examined the maps and plans of the proposed route, and that in his opinion public convenience and necessity require the construction of the road. On cross-examination he testified that he lived on Abbott's road at the junction of Potter's Corners road, opposite Cazenovia road, near the head of Cazenovia street, and had for sixteen years. He described the territory in that section of the city; the extent of existing lines and the method of operation, and complained of lack of facilities. He also testified as to the assessed valuation for improvements on some of the projected lines; that he had owned about 160 acres of land in that section,

and now owned less than half of that amount; that the market for outlying real estate for the past two years in the city of Buffalo had been very quiet. In reply to a question by Mr. Close, one of the counsel for the applicant, the witness stated that his belief, so far as the real estate question was concerned, was, that adequate street car service would bring the property into market, and induce population to go there, and enhance the value of property, both assessed and real.

William H. Newerf, called in behalf of the applicant, testified that he has lived in Buffalo for 43 years; was one of the members and officers of the South Buffalo Business Men's Association; had been a member since its organization; was familiar with the proposed route of the Traction Company and its system, in a general way, and believed that public convenience and necessity demanded the construction of the road to afford facilities for many workingmen, who, he said, are compelled now to walk to and from their work. He criticised the operation of the cars of the existing system, and gave a general description of the territory in the southeastern portion of the city to be benefited by the proposed new line. He thought that competition was desirable. On cross-examination, he testified that he owned real estate in the South Buffalo region; had owned considerable property there, but did not at the present time; had sold a good deal; that one of the elements in connection with the projection and use of any railroad system was that it would build up the locality through which it ran.

Tom L. Johnson, in behalf of the applicant, testified that he resided in Cleveland and was one of the promoters of the proposed new road, and that he had been engaged in the street railway business for twenty-five years in various cities of the country; that he had been over the proposed road and seen the lay of the streets and the apparent population of the city, and considered the population of various sections with reference to the proposed lines, and described the proposed method of operation; he believed that it was a feasible railroad and would be a profitable one to operate; he described the lines of the existing company, and somewhat its method of operation, and said that he had no idea of annoying or competing with the old company in laying out the lines of the proposed road, that naturally the old lines were in the lines of traffic, and more or less, the new company followed the same lines. He further testified that in laying out the system he knew that the old company was there in possession and it was the design of the new company to have a system that would be complete in itself, so that there would be no necessity to have transfers with the old company; had tried to accomplish that end and believed he had succeeded; so that by the new

system a person could reach any point on the line, and a great part of the city of Buffalo, the water front and to the north or west and the east, without having to transfer or go on to the lines of the old company, reaching almost any point by the use of continuous cars, saving the necessity of getting out of one car and into another; that the new company used about 9,000 feet of the lines of the old company. Referring to the proposed Niagara street system of the new company, he said, that in his opinion there was ample business for two lines, and that both would do well. On cross-examination, among other things, he stated that the proposed system was "built" with the idea of avoiding the occasion for passengers passing from the new line to that of the old, and that the new system had been laid out as an independent system so that people could travel on it to all points conveniently, without transferring to the old company's lines; he did not think it reached every point. He testified generally as to the effect of street railroads on the abutting property, and generally as to the method of operation of various roads, and the street railway question. Further testifying, on cross-examination, the witness said that he did not believe very much in competition in street railroads; that each has a little monopoly of its own, whether it is one block or fifty, and that he never said himself, as an argument for his company coming, that the city would be benefited by the competition.

Henry S. Hill, called by the applicant, testified that he had lived in Buffalo all his life, and was familiar with Franklin street and had investigated the number of houses used for business on Franklin street; he also testified as to the character of some portions of the city, valuations, etc., and that public convenience and necessity demanded the construction of certain portions of the proposed road.

John Franey, called for the applicant, testified that he was Deputy State Factory Inspector, and had been since July, 1886; his duties were the inspection of factories and that he had visited various factories in Buffalo, and lived in the city 18 years; he described the city generally and the location of various business interests and the places of residence of the men employed in the various factories, and their means of transit to and from their homes, and said that he regarded the present facilities as inadequate, cars were overcrowded, etc., and that public convenience and necessity required the construction of the new road. He testified, on cross-examination, among other things, that the main flow of travel from all directions was toward lower Main street from Genesee street down to the Terrace.

Dr. Samuel G. Dorr, called by the applicant, testified that he had lived in the city of Buffalo for 23 or 24 years; was a prac-

tising physician and surgeon and had been for 21 or 22 years; that he lived on Jefferson street in the most densely settled portion of the city, and had for 20 years; was familiar with the needs and requirements of the city generally; he said that the new system becomes a necessity under existing conditions; that the cars of the existing system are overcrowded.

Henry Briscoe, called by the applicant, testified that he lived on Briscoe avenue, between Walden avenue and Doat street, on the east side of the city; is a carpenter and works where he finds work; he described the means of getting from his home to the various places where he works, and the time it takes to do so, and mentioned that the construction of certain lines would save time in going to and from work. Also, that the cars of the existing company are crowded. On cross-examination, he testified generally as to his means of getting to and from his work.

John K. Page, called by the applicant, testified that he resided in New York city; he had made an investigation as to whether or not Buffalo was a profitable field for street railroad development; he had walked over the territory, generally, covered by the proposed new lines, and is familiar with it; he criticised the present system, and stated that its weakness is the fact that it is a "Main street line," does not cover the whole city; that it lacks north and south bound lines and crosstown lines; that the new line was laid out to endeavor to reach any point of the city without more than one transfer; that the new company has lines running north and south and east and west, and that there is hardly a point in the city of Buffalo that a person could not reach on one of its cars; that he had noticed the operation of the existing line on Main street and that at certain hours of the day the tracks and the cars are overcrowded. On cross-examination, he further described the proposed line; said that it was his opinion that increased facilities would bring increased traffic; that the new company would get its earnings, he believed, without diminishing largely the earnings of the old company; further on cross-examination, he testified that the Niagara street system of the proposed road was parallel to the present system to the city limits and within one or two blocks of it. On examination by Mr. Loomis, the witness stated, among other things, that he could not explain the reason why each individual street was put in; the plan was built like a house, and he could not explain why each link was put in; and elsewhere that the routes to be operated by the new company had not been finally determined. On behalf of the Buffalo Railway Company, Mr. Page was recalled for further cross-examination. He testified as to the securing of signatures to petitions and stated that petitions had been obtained

by an organization of which he had control, and for which he paid so much per name. He further testified, in response to questions by Mr. Close, as to the method of obtaining consents of property owners on the proposed route, and the amount of consents at that time obtained.

H. H. Littell, being called by the Buffalo Railway Company in opposition to the application, testified that he lived in Buffalo and had for four years, and is general manager of the existing system, and had been engaged in the street railway business for 30 years; that prior to 1891 he lived in Louisville, and was manager of the Louisville Street Railway; he testified as to the condition of the street railway system at the time he came to Buffalo and the improvements made by the existing company, and presented an itemized statement relating thereto, which appears in the appendix hereto; he testified, generally, as to the operation of the existing system, the routes of the proposed new system, the extent of parallel lines, and the territory through which they run, and stated that, in his opinion, public convenience and necessity do not require the construction of the proposed new road. That an application for the extension of the Elmwood avenue line, northerly, was made by the existing company just prior to the application of the Buffalo Traction Company for a franchise. He testified in detail as to the various streets proposed to be occupied by the new company, and his opinion as to the public convenience and necessity of the same, and furnished statements as to the transfers, receipts, routes, and time schedules under which the present system is operated; he said that by adding 20 or 21 miles to the existing system, it would reach and take care of all the traffic that would be provided for by the proposed 66 miles of the Traction Company, and that in view of the transfer system in operation on the existing system and the provision in the Milburn contract for its application to any extensions, public convenience and necessity would be better served by the construction of such additional trackage by the existing company. On cross-examination, he testified that the increase in number of passengers carried in five years had been 180 per cent.; that in 1890 the present company had 93 cars in operation, and at the present time has 301 cars in operation, or an increase of 224 per cent., and an increase in the capacity of the cars of 35 per cent.; that a good crosstown line would be a benefit and that the absence of one is one of the marked defects of the present system; that the proposed line through Utica street is a good line and with proper transfer privileges would be a great accommodation; that if the new road was built, if they gave transfers, a per-

son would get from most any part of the city to another part for one fare, without leaving the line of the new company.

Marsden Davey, called in behalf of the Buffalo Railway Company, in opposition, testified that he was a civil engineer and had been for 30 years; did work from time to time for the Buffalo Railway Company, and was its engineer; that he had measured the extent to which the proposed new system parallels the existing system within two blocks; and that he also had measured the space on which the new company propose to run on the tracks of the existing company, and prepared a statement in detail; that it parallels the existing system 20.16 miles; that there are certain parallel lines which are outside of two blocks, but near enough to come within the designation of parallel lines, and including them, the total amount would be 37.82 miles; that the cars of the new company propose to run on the tracks of the existing company at 18 different points, and the total distance that they run on the present system is 1.70 miles; and that at 94 other points the proposed tracks of the new company cross the tracks of the existing company. On cross-examination, he testified as to the points of measurement and stated that included in the 37.82 miles there was some adjacent, as well as parallel lines.

George Kolbe, called by the Buffalo Railway Company in opposition, testified that he lived in Buffalo and was an assistant of Engineer Davey, employed by him; that he knew the proposed system of the Buffalo Traction Company; had been over a good deal of it in the outlying parts, and made a count of houses on both sides of various streets, and had prepared a statement thereof; that on 6.51 miles of street through which the proposed line runs, there was not a house, and on 24.06 miles there were but 462 houses, including both sides of the street, and that on or about 30 miles of the streets through which this proposed road would run the total number of houses was 462; they run through streets that are not opened or laid out, 1.74 miles; that they have to acquire of private property 1.3 miles; that of the 462 houses on these 30 miles of streets, 199 of them are near and contiguous to existing lines of the Buffalo Railway Company. On cross-examination he stated that he made this examination under orders from Mr. Bushnell, one of the counsel for the Buffalo Railway Company; that he did not take the consecutive mileage of the whole system, but that he drove over certain streets and counted the houses on them; that he was not directed to go over any certain streets; that he did not count the houses in the center of the city, but did on Bailey avenue and the Amherst street line as proposed; that in several instances he had taken parts of streets only in making up the statement, and those lying in the outlying parts of the

city; but that as a rule, when he started down a street, he counted the houses on both sides right straight along; that there was only one or two where he took sections out of a street; that on Amherst street he took a section out, going from Howell street east.

George E. Mann, called in behalf of the Buffalo Railway Company, in opposition, testified that he had lived in Buffalo 50 years of his life; that he was a civil engineer and had been for 25 or 30 years; that he had been city engineer of Buffalo and assistant city engineer for 11 years, and is now engineer of the Grade Crossing Commission, and had been for eight years; had prepared the grade-crossing plan and is thoroughly familiar with all the territory included in the city limits of the city of Buffalo; that he had made a careful examination of the proposed lines of the Traction Company and the lines of the existing company, driving over a good deal of the territory. He gave a general description of the city, and testified as to the population and the location of the factories and other industries and as to the charts prepared by him, filed herein; that taking the city and county hall as the center, that there are 18.42 miles of streets in a mile diameter area; that there are 6.79 miles occupied by the Buffalo Railway Company, and there would be 6.25 miles occupied by the Buffalo Traction Company, and one mile of steam railroad track, making a total of 14.04 miles, leaving but 4.8 miles of streets unoccupied by steam or electric railway tracks within that area. He testified as to the location of the residences of the workmen employed in the various factories and other industries and their habits and customs in going to and from their work; that there are ample facilities on the existing system, except at certain hours at morning and night when there is a heavy pressure and that relief therefrom was only a question of more cars; that public convenience and necessity do not require the construction of the proposed railroad. The witness further stated that the number of crossings of steam railroads made by the Buffalo Railway system is 34, and that 14 of them were treated of in the plans of the Grade Crossing Commission; that the number of crossings of steam railroads made by the proposed railroad of the Buffalo Traction Company is 46, and but six of the 46 are included in the plans of the Grade Crossing Commission; that his recollection was that 150 or 160 steam railroad tracks would be crossed by the proposed Buffalo Traction Company's lines. On cross-examination, the witness stated what he believed to be the center of population, and described generally the lines of the existing company and the proposed road and the means of transit from one point to another in various parts of the city.

George Halbin, called in behalf of the Buffalo Railway Company, in opposition, testified that he was employed in the assessors'

office and had been for six years; that in the assessors' office is kept a series of maps on which all property and assessed valuation of land and improvements are entered; that he made a transcript of the assessed valuation of land and improvements on certain of the streets the Traction Company proposes to construct lines upon; that on Hopkins street and Payson avenue, from the Buffalo river to the city line, a distance of 2.31 miles, the total amount of assessed valuation for improvements is \$16,180, and of that amount \$9,280 is assessed on steam railroad improvements. On Amherst street, from the junction of Kail street and the Military road to Fairfield street, the distance is 2.61 miles, and the total valuation of improvements is \$159,550, of which \$73,740 is on steam railroad property, \$10,000 park property, leaving for private property less than \$70,000; that the line from Humboldt avenue through Kensington avenue, Warwick avenue, Connelly street and Sugar street, is 2.58 miles, on which the total valuation of improvements is \$121,515, \$83,865 of which is for improvements on steam railroad property, and that less than \$40,000 is for improvements on private property; that the Delavan avenue line, from Main street east to Moselle street, running one way, and to Wyoming avenue, running the other, is a distance of 1.65 miles and that the valuation of improvements is \$180,975, \$27,975 of which is assessed on steam railways, and \$100,000 on the Sisters' Hospital, and that a total of \$127,000 out of \$180,000 represents other than private property. On cross-examination the witness stated that he had not given the assessed valuations on the whole line of the proposed road, but that certain sections were picked out for him by somebody and he took the transcript from the assessors' books, and in response to a question from Mr. Milburn, said it showed the valuations on what is called the outlying regions of the city of Buffalo.

Jewett M. Richmond, called in behalf of the Buffalo Railway Company, in opposition, testified that he had lived in Buffalo 40 years, and had been for many years engaged in business, and is proprietor of elevators, and for a period of years was president of the American Exchange Bank; that he had been a close observer of the city of Buffalo and its growth and development; that he had been president of the common council, and a councilman for three years; that he owns real estate in various parts of the city. He stated that he had observed, more or less, the operation of the existing system, and knew as to the general situation in Buffalo and the nature of the street railway service, and that public convenience and necessity do not require the construction of the proposed road. On cross-examination he stated that he was opposed to having streets occupied by street surface railroads under any circumstances.

Henry J. Pierce, called in behalf of the Buffalo Railway Company, in opposition, testified that he lived in Buffalo and had for 31 years; that he is the president of the Manhattan Spirit Company; that he is familiar with the situation and the lines of the existing company; that he is more intimately acquainted with the west side; that he does not think that public convenience and necessity require the construction of the proposed Niagara street system; that at the present time a crosstown line such as proposed through Utica street would be a good thing; that he can not see any necessity for the other lines projected. On cross-examination he stated the location of his factory and the location of other factories. He said that he was a director in the Buffalo and Niagara Falls trolley line, which has a traffic arrangement with the Buffalo Railway Company.

George P. Sawyer, called by the Buffalo Railway Company, in opposition, testified that he had lived in Buffalo all his life, and is engaged in the lumber business and had been for 20 years; that he is a director of the American Exchange Bank and an owner of real estate in various parts of the city, inside as well as in outlying regions; that he is familiar with the Black Rock region; that the construction of the Traction Company's proposed lines in that part of the city is wholly unnecessary; also that line contemplated in Linwood avenue and Franklin street; also to the same effect as to the regions lying north of the park and Kensington; that there is no present demand for additional lines, and absolutely no public need or convenience requiring the occupation of streets like Elm and Ellicott streets. On cross-examination he testified to an objection to street cars in streets that were used largely for other traffic.

General John C. Graves was called by the Buffalo Railway Company, in opposition, and testified that he had been engaged in business in Buffalo for 29 years, during the last 10 or 15 years in real estate, etc.; that he owns real estate situated in various parts of the city, inside as well as in outlying regions; that during the last 25 years he had given particularly close attention to the conditions of Buffalo life and its development, and had given a thorough examination as to what is proposed by the Traction Company; knows the street car lines of the city as they are laid out, the general facilities and the distribution of population; that there is no public need or convenience requiring the construction of another independent line in the Niagara street region; that he saw no necessity for one in Franklin street and Linwood avenue; that there is no population north of the park or in Kensington that is not very well accommodated with street car facilities; that the district known as Kenmore is very well taken care of; that there is no public need or convenience requiring the construc-

tion of new trunk lines into the heart of the city. On cross-examination, he stated that on most of the roads of the existing company more cars could be used; that the facilities could be improved by increase in the number of cars; that he has had no practical experience in street railroad business. In response to a question by Mr. Haupt, he stated, that he is a member of the board of park commissioners, and that such board has passed a resolution expressing its opposition to any railroad passing through any of the circles or parkways.

George H. Dunbar, called by the Buffalo Railway Company, in opposition, testified that he had lived in the city of Buffalo all his life; that he is an iron manufacturer, engaged in business for 25 years; that he owns real estate in various parts of the city; that he has been a close observer of the conditions of Buffalo business and Buffalo life and its development and extension; that he knows the street car system of the city fairly well and has examined into the matter of the proposed lines of the Traction Company; that he does not think there is any necessity for any additional tracks; that he does not think public convenience and necessity demand additional trackage. On cross-examination the witness stated that by "facilities" he meant trackage; that he did not mean to say that no additional accommodation was required, more cars might be needed.

John E. Selkirk, called in behalf of the Buffalo Railway Company, in opposition, testified that he lived in Buffalo; that he is a lawyer associated with Mr. Box, and related to him; that he had been out in what is called the Kensington district counting the houses within certain boundaries and prepared a paper showing the result. On cross-examination, the witness stated that he made the investigation the preceding week, Tuesday or Wednesday, and spent about seven or eight hours in it; that he did so at the suggestion of Mr. Box. [Statement received in evidence.]

Mr. Milburn, in behalf of the Buffalo Railway Company, in opposition, read a statement relating to the passengers carried on the Broadway railroad of New York city.

There was also offered in behalf of the Buffalo Railway Company, in opposition, the affidavit of Thomas H. McLean, general manager of the Citizens' Street Railway of Indianapolis, who said that he had made an examination of the existing system in the city of Buffalo, and the proposed routes of the new company, and that public convenience and necessity do not require the construction of the new company's lines. Also the affidavit of Charles E. Sargeant, general manager of the West End Railroad of Boston, and of Richard Hapgood of Cambridge, general road-master of the West End Railroad of Boston, also of Martin S. Robinson, general manager of the Fort Wayne Electric Railway,

formerly manager of the Cleveland City Cable Railway, also of Elwin C. Forster of Lynn, general manager of the Lynn and Boston Railroad, all to the same effect; the minutes of the board of aldermen of the city of Buffalo, at page 2180 of the official minutes, showing the application of the Crosstown Street Railroad Company of Buffalo, for permission to extend, maintain and operate its railroad in various streets of the city; also a certified copy of the offer of said Crosstown Railroad Company to give bonds in the penal sum of \$200,000, conditioned upon the construction by it of its lines in the streets included in the above-mentioned application.

There were also offered in opposition to the application, petitions, affidavits and remonstrances from numerous property owners, representing, in many instances, more than a majority in value of the abutting property, on various streets, including East and West Utica street, Delavan avenue, West Delavan avenue, Bouck avenue, Linwood avenue, Franklin street, Norwood avenue, Massachusetts street, Prospect avenue, Elm street, Plymouth avenue, Jersey street, Front avenue, Grape street, Carlton street, Lombard street, Kail street, Mortimer street, Church street, North Division street, East Tupper street, Farmer street, East and West Chippewa street, Georgia street, Oxford place and Thompson street. Also on the part of protesting property owners on Prospect avenue, a certified copy of a resolution adopted by the common council of the city of Buffalo, under date of December, 1891, reciting that it is the sense of the council that a street railroad is "now unnecessary in Prospect avenue."

Also on the part of residents of Bouck avenue, the resolution of the park board referred to in the testimony of General Graves.

The evidence thus summarized is a condensation of a mass of testimony taken during the sessions occupying a large part of two weeks spent by the Board in the city of Buffalo. At the same time, the members of the Board took occasion to view in detail the lines of the existing system, especially endeavoring to observe the traffic at the hours and upon the thoroughfares where congestion was alleged to be most pronounced. The members of the Board also examined the city with reference to the various lines which the applicant wishes to construct.

It is proper to say, that the Board attaches little importance to resolutions, documents in the form of petitions, and other such general expressions of opinion or desire. It need hardly be said that they are in no sense legal evidence; it can not even be said that they express any well-defined opinion or belief. In fact, little or nothing can be proven of them or about them, and little weight, if any, should be given to them. Of the testimony of the witnesses, it is clear from the recital given that many of them gave

opinions rather than facts. Such an opinion where it is not clear that the witness is in some degree an expert is of little consequence. This is especially true where the opinion upon the witness's own statement is based upon a desire that labor should be employed, or upon impatience because the existing transfer system has been dilatory or vexatious. Neither can much weight be given to the wish of persons owning outlying or suburban vacant land. To say that surface railroads are needed in order that people may reach such land does not alone constitute proof of public necessity. Necessity means present necessity arising from the desire of people to travel. The statute does not contemplate remote necessity. Under its provisions the application may be renewed within a year. Obviously, therefore, the condition governing its interpretation in this particular is that of the present and near future.

The affidavits and other testimony, reasoning from an analogy real or supposed, between Buffalo and other cities, deserve comment. From its nature, such an analogy can not be conclusive. It is of slender value as a guide for a Board whose members possess and exercise the power and duty to examine for themselves the locality in question. To a very considerable degree, the substance of the affidavits and testimony dealing with this branch of the case, expresses opinions based upon reasoning and upon the more or less general observation of the witness or person making the affidavit. To find the true value of such testimony, it would be necessary to make it clear how far each of these other cities differed in conditions and population and business and habits of life from Buffalo. Furthermore, it may be that some of them are over-supplied with surface railroad facilities. In fact, such a form of comparison or analogy can not be so framed as to lead the mind directly to any conclusion. Neither is it practicable to visit each city with which such comparison has been made and thus to test the comparison. It has already been shown that within the city limits of Buffalo there is a large unoccupied area. This fact may account for many of the apparent differences between Buffalo and the cities with which its existing system has been compared.

In arriving at a proper determination, in view of the decisions under section 59, heretofore referred to, the relations of the proposed routes to those existing are material. An analysis of the proposed routes and a discussion of their merit or lack of merit will, therefore, be necessary. Such discussion is based upon a personal inspection made by the Board, as well as upon the evidence in the case.

In making the analysis the Board has taken the lines of the proposed system and the existing system street by street and

not in the form of existing or proposed routes. This procedure was adopted because, as appears from the evidence in behalf of the applicant, its proposed routes had not been fully determined upon, and because it was found that the subject could be more clearly treated by adopting this method. For convenience, the analysis commences at the northwesterly limits of the city and gradually works to the south and east, bringing the lines down to the southerly extremity of the city in as regular an order as is practicable. There is in the appendix hereto a list of the routes of the existing system. The articles of association already referred to state the streets and avenues which the applicant proposes to occupy.

Commencing at the northwesterly line of the city on O'Neil street and running thence along O'Neil street to Niagara street and then down Niagara street to Hertel avenue, the proposed route practically parallels the Tonawanda street line of the existing company, at a distance varying from about 700 feet to 1,200 and is designed to serve a territory now served by the above-mentioned Tonawanda street line. This portion of the city is very sparsely settled, the proposed line being along the water front with no territory to the west to draw upon for patronage. Crossing Grace street from Niagara street to Pacific street, the proposed line parallels the Hertel avenue line of the existing company at a distance of about 250 feet; continuing down Niagara street from Hertel avenue to Farmer street, a distance of about 250 feet, the Traction Company proposes to use the tracks of the existing company. Turning to the east over Farmer street it again parallels Hertel avenue at a distance varying from 200 to 300 feet to Thompson street, and runs thence down Thompson street to Parish street, paralleling the Niagara street route of the existing line at a distance of about 800 feet, between which points are two proposed lines of the existing company, one on East street and one on Dearborn street; running thence east on Watts street to the Military road. The Grace street line runs from the corner of Grace and Pacific streets, southeasterly to Austin street to Kail street, and thence southerly to the Military road at its intersection with Amherst street. The territory covered by this branch is sparsely settled and is now served by the Tonawanda, Hertel avenue, Grant street and Military road, and Niagara street lines of the existing company, and the New York Central belt line.

Another branch of the system begins at the city line on Elmwood avenue, running thence southerly between the Park and the State Hospital grounds to Forest avenue. A portion of the street from Amherst street to Forest avenue has not yet been opened. The territory here, within the city limits, is sparsely settled, and the line is intended to furnish facilities for the resi-

dents of what is known as the Kenmore district, north of the city line. This is a street upon which the old company has a line, on the southerly portion, and has asked the permission of the common council to extend its line northerly through the territory now sought by the Traction Company just prior to the application of the Traction Company to the common council. This territory is now in a measure served by the Hertel avenue line and the Grant street and Military road line, of the existing company. It also has running through it the tracks of the Delaware, Lackawanna and Western and the Erie railroads, but a passenger service is not at present maintained on those lines. The construction of a line in this street from the terminus of the existing company's road would seem to be desirable. The proposed Amherst street line commences at the intersection of the Military road and Kail street, running thence easterly north of the New York State Hospital and the North park to Fairfield street; thence southerly along Fairfield street to Vernon street, and easterly along Vernon street to Main street, crossing Main street and connecting with the proposed Fillmore avenue line. This line parallels for the greater part of its distance the Hertel avenue line of the existing company, at a distance of about 2,000 feet; it also parallels the New York Central belt line, which runs practically midway between Hertel avenue and Amherst street, until just before reaching Fairfield street, where it crosses the proposed line at grade. This is a sparsely-settled district.

Commencing on the Military road at the junction of Kail street and Amherst street, the proposed line runs through private lands to the junction of Watts and Winans streets; along Winans street southerly and southeasterly, crossing the Scajaquada creek by a bridge not yet constructed, over private property to Dewitt street, running thence southerly along Dewitt street to Forest avenue. This is a manufacturing as well as a residence district, though not thickly settled, and is now served by the Niagara street line of the existing company, at a distance ranging from 700 to 2,000 feet to the west, and the New York Central belt line a few hundred feet further to the west, running along the water front, with stations at Amherst street and Black Rock, and the Grant street line of the existing company, at a distance of from 800 to 1,500 feet to the east. Commencing at the intersection of Dewitt street and Forest avenue the line continues southerly on Dewitt street to School street, with the Niagara street line of the existing company at a distance of about 700 feet to the west, and the New York Central belt line a few hundred feet further to the west, running along the water front, with stations at Clinton avenue and West Ferry street, and the Grant street line of the existing company, at a distance of from 1,000 to 1,200 feet to the east.

The proposed line in West Delavan avenue and Bouck avenue should be treated as one route, as only one of these streets would be used in the event of consent being given to place a double track in either. It parallels the Forest avenue line of the existing company, which is about 2,100 feet to the north and crosses the Grant street and Hoyt and Baynes streets, and the Elmwood avenue lines of the existing company. It also, for a distance of 2,000 feet, parallels the West Ferry street line of the existing company, which is 1,500 feet to the south. The Delavan and Bouck avenue line has a connecting link on Ashland street and is connected with the proposed line on Elmwood avenue by a line running northerly along Norwood avenue to Forest avenue, and along Forest avenue on the tracks of the existing company for a distance of about 700 feet to Elmwood avenue. The line on Norwood avenue, for a distance about 2,000 feet, parallels the Elmwood avenue line of the existing company at a distance of about 600 feet to the east, and the Hoyt and Baynes street line about 1,200 feet to the west. This is an almost exclusively residence portion of the city and not thickly populated. The proposed Delavan and Bouck avenue line also crosses Bidwell parkway, Bidwell place, Chapin parkway and Chapin place. It occupies on West Delavan avenue about 600 feet of the tracks of the existing company, and on Linwood avenue about 300 feet; thence through private lands to Oxford avenue, and runs thence southerly to Balcom street, thence on the tracks of the existing company along Balcom street westerly to Linwood avenue. This territory is a strictly residence portion of the city, and the existing company now has within that territory tracks on Forest avenue, Elmwood avenue, Linwood avenue and Balcom street. The tracks of the present company in Harvard avenue are about 500 feet to the west, and in Linwood avenue about 300 feet to the east of the proposed Oxford avenue line. The Delavan and Bouck avenue line also crosses Main street and extends easterly along East Delavan avenue to Moselle street, crossing the Grider street line of the existing company. This is a sparsely-settled portion of the city, and is now served by the Main street, East Ferry street, and Grider street lines of the existing company, as well as the New York Central belt line.

North of the proposed East Delavan avenue line, a distance of about 1,500 feet, is the Kensington avenue line, running from the Main street line of the existing company, across Humboldt parkway to Fillmore avenue; thence northeasterly to Warwick street, thence easterly to Connelly street, thence easterly along Connelly street to Bailey avenue, thence southerly down Bailey avenue to Sugar street and across Sugar street to the Pine Hill road, thence southerly along the Pine Hill road to Doat street, thence westerly

along Doat street to French street, and along French street to Fillmore avenue, thence northerly along Fillmore avenue to East Utica street, thence westerly along East Utica street to Main street. The proposed line in Fillmore avenue runs from the intersection of Fillmore avenue and French street, northerly to the intersection of Vernon and Main streets, crossing the Main street line of the existing company at that point. The proposed line also runs from Walden avenue northerly along Moselle street to Wyoming avenue and thence northerly to Warwick avenue, connecting with the proposed line extending from Kensington avenue to the Pine Hill road. This includes the section known as Kensington, which is a sparsely-settled portion of the city, the extreme northeasterly section being almost entirely unsettled. The lines of the existing company in Main street, Bailey avenue, Kensington avenue, Grider street, Delavan avenue, East Ferry street, Genesee street, Kehr street, Jefferson street, Masten street and Michigan street now serve this territory.

Commencing on West Utica street at its intersection with Main street, what is known as the proposed cross-town line of the Traction Company continues westerly along West Utica street to Massachusetts street, thence southwesterly along Massachusetts street to Prospect avenue. This is exclusively a residence portion of the city. The proposed line supplies a territory not now served and provides desired and needed crosstown connection.

Commencing on Plymouth street at its intersection with School street, the Traction Company also has a proposed line running over the tracks of the existing company, along Plymouth street southerly to Hampshire street, thence southwesterly along Hampshire street to Fargo avenue, thence southerly along Fargo avenue to Massachusetts street. The territory served by the line just described, from School street to Prospect avenue, is now served by the lines of the present company in Niagara street, Plymouth street, Normal street and Fourteenth street, from one to two blocks distant.

From the junction of Massachusetts street and Prospect avenue, the proposed line of the Traction Company continues southeasterly along Prospect avenue to Jersey street, and thence southwesterly along Jersey street to the water front. From Massachusetts street on Prospect avenue to Jersey street, it parallels the Niagara street line of the existing company, within a distance of about 300 feet to the west, and lines in Plymouth avenue, Normal street and Fourteenth street, varying from 1,000 to 1,500 feet to the east. The line across Jersey street is designed to afford transportation to the water front. The locality is now served by the New York Central belt line, with a station at Porter avenue. At the intersection of Jersey street and Front avenue,

the proposed line continues southeasterly along Front avenue to Court street, with a line branching to the east along Georgia street to the junction of Whitney place and Chippewa street, and thence easterly along Chippewa street to Ellicott street, crossing the proposed line of the Traction Company in Franklin street, and the Niagara street, Main street and Washington street lines of the existing company. This line parallels the Niagara street line of the existing company about 700 feet to the east, and the New York Central belt line 1,200 to 1,500 feet to the west. The connection between the junction of Georgia street and Front avenue, running along Georgia street to Chippewa street, parallels the line of the existing company in Huron street, distant to the south about 500 feet.

The line on Linwood avenue, commencing at the intersection of Balcom street, extends southerly along Linwood avenue to North street, and thence southerly along Franklin street to its intersection with Erie street. The proposed Franklin street and Linwood avenue line throughout its entire distance is parallel to and just west of Main street, there being no street between them for the greater part of the distance. The lower part of the Franklin street line also parallels the line of the existing company in Pearl street from Huron street to Swan street.

Commencing at the intersection of Linwood avenue and North street, a line is projected running easterly along East North street to Elm street, thence northerly along Elm street to Best street, thence easterly along Best street and Walden avenue to Moselle street, crossing the Michigan street, Masten street, Jefferson street and Genesee street lines of the existing company. This is a well-settled portion of the city and also includes the Parade. It is now served by the lines of the existing company in Kehr street, Genesee street, Jefferson street, Masten street, Michigan street and Main street.

It has been represented that there is a lack of direct cross-town connection with Main street. At the present stage of the city's growth there is foundation for this statement. The existing crosstown connections between the part of the city just referred to and Main street are on Genesee street, Sycamore street and Broadway. They tend in a southerly direction and converge with the view of reaching the older business center of the city.

The proposed Best street line is connected with the proposed East Utica street line by a line running north and south through Rochester avenue, from Best street to East Ferry street parallel to the Jefferson street line of the existing company to the west, a distance of about 1,000 feet.

A line is projected commencing at the intersection of North street and Main street and running thence down Main street

over the tracks of the existing company for a distance of about 700 feet to High street, thence easterly along High street to Washington street, thence southerly along Washington street to Goodell street, thence easterly along Goodell street to Ellicott street, thence southerly along Ellicott street to Exchange street, thence along Exchange street easterly on the tracks of the existing company about 700 feet, thence northerly along Welles street to Carroll street, and thence westerly along Carroll street to Ellicott street. This is designed to serve a territory, the northerly portion of which is devoted to business as well as residence purposes, and extends southerly through or adjacent to the business center of the city. It parallels the Main street line its entire distance, and the Washington street line from Huron street to Exchange street, at a distance of from one to two blocks.

Commencing at the intersection of Ellicott street and Tupper street a line is projected easterly along Tupper street to Elm street, crossing Elm street and Michigan street to Cherry street, thence northeasterly along Cherry street to Grape street, thence northerly along Grape street to East North street, thence easterly along East North street to Locust street, thence southerly along Locust street to Carlton street, thence easterly along Carlton street to Elm street. This route is also connected with the Best street line from the intersection of Grape and East North streets, by a line running northerly through Grape street.

A line is also proposed from the intersection of East North street and Elm street, running southerly along Elm street to Swan street.

This is a thickly-settled part of the city, and is served by the existing company by lines in Jefferson street, Genesee street and Michigan street, in the northerly portion, and in the southerly portion by the radiating lines of the existing company on Genesee street, to Sycamore street, Broadway and William street, and the lines in Clinton street, Eagle street, North Division street and Seneca street.

A line is also projected commencing at the Georgia street station of the New York Central belt line on the water front, and running thence northeasterly along Georgia street, crossing the Erie canal to Court street, thence easterly along Court street to Main street, crossing the existing line on Niagara street. This is purely a business section of the city, and the proposed line gives access to the water front.

A line is also projected on Genesee street running from the water front northeasterly to Ellicott street, proposing to occupy the tracks of the existing company on Genesee street from Main street to Ellicott street. This line is also intended to give

access to the water front, and crosses the Erie canal, the tracks of the New York Central belt line, the Niagara street line, the Best street line, the Main street line, the Washington street line, and the Huron street line of the existing company. It runs through a business portion of the city, and territory that now is served by the lines of the existing company, previously mentioned, and the New York Central belt line.

From Court street to Church street on Main street, a distance of about 1,000 feet, a line is projected to run over the tracks of the existing company, connecting with the Franklin street line through Church street.

Commencing at the intersection of Church and Main streets and running thence southwesterly along Erie street across the Erie canal to Canal street, thence southeasterly along Canal street to Main street, crossing Main street to Scott street, along Scott street easterly to Mississippi street, thence southerly along Mississippi to Elk street, easterly along Elk street to Michigan street, southerly along Michigan street, crossing the Buffalo creek and the City Ship canal to the sea wall. It is also proposed to extend this line along Ohio street southeasterly, crossing the mouth of the Ohio basin, continuing along Ohio street, crossing the Buffalo creek on the Hamburg turnpike and continuing along the Hamburg turnpike to the Lehigh Valley Railroad coal docks. This is a business district, devoted chiefly to transportation interests, and the line, it is plain, is projected in the interests of the men employed in the various enterprises in that territory. There are certain alleged and apparent difficulties preventing efficient and frequent service in the operation of this line, owing to the fact that it is to cross the Buffalo creek and the Ship canal and the numerous tracks of steam railroads which are almost constantly occupied with freight. The lines of the existing company in Main street, West Seneca street, Parish street, Michigan street and Elk street and the New York Central belt line afford the present facilities. There is, apparently, a need for some additional lines in this territory.

Commencing at the intersection of Main street and South Division street, a line is also projected, running easterly along South Division street to Smith street.

Commencing at the Terrace station on the New York Central belt line, there is a short spur of track running along the Terrace to Erie street and also running easterly on Swan street to Cedar street, crossing the lines of the existing company on Pearl street, Main street, Washington street and Michigan street, running thence up Cedar street to North Division street, thence easterly along North Division street to Chestnut street, thence southerly along Chestnut street to Swan street; also on North

Division street from Cedar street easterly to Spring street. This is in a thickly-settled business portion of the city, which includes some residences. The line on South Division street and Swan street parallels the lines of the existing company in Seneca street to the south, at a distance of about 700 feet, and the lines of the existing company in North Division street and Eagle street, at a distance varying from 500 to 1,000 feet.

There is a line projected commencing at the intersection of Perry street and Mississippi street, and running easterly along Perry street on the tracks of the existing company for about 1,000 feet, thence along Perry street easterly to Orlando street, thence southerly along Orlando street, crossing through private lands, across the Buffalo creek and an island to Abbey street, as opened or projected, and thence along Abbey street southerly to Lackawanna avenue, thence along Lackawanna avenue and Pembina avenue to Hopkins street, thence along Hopkins street, as opened or projected, southerly to the city line at South park. Following the same line northerly from the junction of Pembina avenue and Hopkins street, it runs northerly upon Hopkins street to the Abbott's Corners road, and thence running south-easterly upon the proposed lines of the existing company to Payson avenue, thence upon Payson avenue, and, apparently, upon private property, northerly and easterly across the creek to Melvin place, thence northerly to Keppel avenue and along Keppel avenue to Seneca street. Commencing at a point on Ohio street at its intersection with South street, and running thence easterly along South street to Hamburg street, thence northerly along Hamburg street to Sandusky street, thence easterly along Sandusky street to Smith street, thence northeasterly along Smith street to Seneca street.

Also a connecting branch commencing at the intersection of Sandusky street and Hamburg street, running northerly on Hamburg street to Perry street. This is a sparsely-settled district, occupied largely by the tracks of the various railroads centering in Buffalo. Only a portion of the territory has thus far been laid out in streets and very little of it is occupied. Southerly and easterly of this territory are the Cazenovia, South and Stony Point parks. This territory is now served by the lines of the existing company in Elk street, Seneca street, Triangle street, South Park avenue and Bailey avenue.

A large part of the area of the city south of Elk street is so occupied by the creek, by repair shops, and by such forms of business as soap works, oil refineries, and other similar establishments, that it is not likely to ever have a great population. In the extreme south it may be that improved facilities in the future, when grade crossings of steam railroads have been removed, will

enable people to live at a distance from the center of the city and near the three parks already spoken of. These parks are four and four and one-half miles from the city hall. At present there is no population in that extreme southerly region.

The proposed line in Perry street is connected with the proposed line in Swan street by a proposed line in Chicago street, crossing the tracks of the Lehigh Valley, the Lake Shore, the New York Central, the Erie and the Western New York and Pennsylvania Railroad and the Hamburg canal. This proposed line, unless included in the plans of the Grade Crossing Commission, could hardly be constructed.

Commencing at the junction of Best street and Herman street a line is also projected running southerly along Herman street to Broadway, thence diagonally across Broadway to Smith street, thence southerly along Smith street to Seneca street. Public convenience and necessity would seem to require the construction of a line on Smith street.

Commencing at the intersection of Genesee street and Best street a line is projected, running southerly along Mills street to Stanislaus street, thence westerly along Stanislaus street to Beck street, thence southerly along Beck street to Peckham street, thence westerly along Peckham street to Mortimer street, thence southerly along Mortimer street to Williams street, thence southwesterly along Williams street on the tracks of the existing company to Spring street, thence southerly along Spring street to North Division street. This is a thickly-populated portion of the city and has no lines running north and south, east of Jefferson street, except the New York Central belt line. There are, however, the radiating lines of the existing company, running through Genesee street, Sycamore street and Broadway, and the cross-town lines in Williams street and Clinton street and Eagle street, and the north and south line on Jefferson street.

A line is projected, commencing at the intersection of Doat street and Bailey avenue and running southerly and southwesterly along Bailey avenue to Seneca street. The northerly part of this line runs through a sparsely-settled residence portion of the city. The number of houses actually fronting on Bailey avenue is very small. For the entire distance of about four miles the total number of houses as shown by the testimony is but 194. As this line extends southerly it passes the West Shore railroad shop, the Wagner palace car shop, the New York Central railroad shop, the Erie railroad shops and through the yards of the New York Central and the Erie railroads. It is intended to provide transit facilities north and south in the extreme eastern portion of the city. In this territory there are no north and south bound lines except the belt line of the New York Central railroad, from

three to four thousand feet to the west of Bailey avenue. The territory is, however, served by the radiating lines of the existing company in Genesee street, Walden avenue, Broadway, William street, Clinton street and Seneca street. In the main the territory occupied by this line is given up to railroad yards and shops and enterprises that employ many men, but there is little resident population. Owing to the numerous steam railroad tracks and the constant passage of cars upon them it is doubtful whether a road that has the right to cross them could be operated. It should be carried over or under if constructed.

Upon the testimony and after examining the proposed lines, both as a whole and in detail, and after examining the needs of the city and the service rendered by the existing system and other facilities it is the conclusion of the Board that the application must be denied. The applicant has not shown public need for the construction of such a substantial part of its proposed railroad as warrants affirmative action by the Board. In such an application a certificate should not be refused if the applicant showed a public need for such a substantial part of its proposed road as would justify the construction of the whole.

The statute in nowise authorizes the Board to promote the construction of unnecessary railroads, and it can not be maintained that there is public need for the construction of a railroad, if, as in this instance, a preponderating portion of it is to occupy territory already supplied or territory not now settled. It is clear from the testimony of the applicant's witnesses, Page and Johnson, that they wish to occupy a large portion of the territory now occupied by the existing companies and to duplicate those systems, even to such a degree as to make reciprocal transfers unnecessary.

Some new railroad facilities are or will be needed in the near future. They have been already referred to. They can be met by the construction of crosstown lines; also by some slight construction in the extreme southwest of the city and by the construction of some such line as that proposed by the applicant herein upon Smith street and Bailey avenue, although the Bailey avenue proposition does not represent a clear present need, or perhaps an available route.

The managers of the existing system propose to construct some 20 miles of new lines. The Board does not undertake to say who, if anyone, shall furnish these facilities. It is, however, proper to say that the construction of 20 miles, as proposed on behalf of the existing system, would meet all the demands of the near future in a proper and sensible way. Furthermore, the general interests of the city, and the convenience and personal economy of individual patrons, will be best served by incorporating such new construction with an existing system and applying to the whole the transfer privilege.

It may be that the city of Buffalo will contain a half a million people within ten years, but this possibility instead of supporting the applicant's case seems, in some respects, to work against it. The applicant's proposed system would occupy 40 miles of streets needlessly. In the center of the city's business activity, if applicant's road as proposed should be built, 14.4 miles of streets out of a total of 18 miles would be occupied by the tracks of electric and other railways. Such occupation is not necessary, and with such growth as has been contemplated the burden imposed by it upon the general activities of the city might become well nigh intolerable.

The conclusions reached by the Board rest in part upon the intelligent testimony given by several witnesses on behalf of the opposition to the application. Some of them represent substantial and enduring elements of the city, and they can not be said to be interested to defeat any meritorious proposition. They have done much by their own business activity to make Buffalo vigorous and prosperous. The duty of weighing witnesses as against each other may not be agreeable, but it should be stated that, in this respect, the applicant was at a disadvantage. The principal witnesses in its behalf are interested in the application and are not otherwise interested in the city of Buffalo. The others can hardly be said to represent the sort of broad and balanced judgment and observation most to be desired. They were largely either interested in the development of outlying real estate or of that type of character whose inclination to disturb existing conditions exceeds its ability to improve them and whose willingness to deal with the future is greater than its proved capacity to cope with the present.

It is the opinion of the Board that public convenience and a necessity do not require the construction of the proposed railroad. It is, therefore, the order of the Board that the certificate applied for be refused.

By the Board.

CHARLES R. DEFREEST,

Secretary.

Appendix Filed in Above Entitled Matter.

Certificate of Incorporation of Buffalo Traction Company.

We, the undersigned, all being persons of full age and at least two-thirds being citizens of the United States and a majority residents of the State of New York, desiring to become a corpora-

tion under and by virtue of the Railroad Law, for the purpose of building, maintaining, and operating a railroad, do hereby certify as follows:

First. The name of the corporation shall be "The Buffalo Traction Company."

Second. The number of years it is to continue shall be nine hundred and ninety-nine (999).

Third. The kind of road to be built and operated shall be a street surface railroad to be operated by electricity.

Fourth. Such railroad is to be built, maintained, and operated from the city line of the city of Buffalo at the South park and from the City Ship canal in the Hamburg turnpike to the city line of the city of Buffalo in O'Neil street, and across the city of Buffalo to the Pine Hill road in the town of Cheektowaga, which places will be its termini and its length will be sixty-six and six-tenths (66.6) miles.

Fifth. The county in which any part of it is to be located is the county of Erie.

Sixth. The amount of the capital stock shall be three million dollars (\$3,000,000).

Seventh. The number of shares into which the capital is to be divided shall be thirty thousand (30,000).

Eighth. The capital stock is to consist of common stock.

Ninth. The names and post-office addresses of the directors of the corporation who shall manage its affairs for the first year are as follows:

Edwin G. S. Miller, Buffalo, N. Y.

Joseph B. Mayer, Buffalo, N. Y.

Tom L. Johnson, Cleveland, Ohio.

Richard Ladenburg, New York, N. Y.

John K. Page, New York, N. Y.

Louis Kahn, New York, N. Y.

Leonard B. Crocker, Buffalo, N. Y.

Washington Bullard, Buffalo, N. Y.

Herbert P. Bissell, Buffalo, N. Y.

Tenth. The place where its principal office is to be located is the city of Buffalo, county of Erie, State of New York.

Eleventh. The names and description of the streets, avenues and highways in which such railroad is to be constructed are as follows: Beginning in the Hamburg turnpike at the City Ship canal; in Hamburg turnpike to and into Ohio street; in Ohio street from the Buffalo creek to Michigan street; in Michigan street from sea wall to Ohio street; in Michigan street from Ohio street to Elk street; in Elk street from Michigan street to Mississippi street; in Mississippi street from Elk street to Scott street; in Scott street, crossing Mississippi street to Lake street; in Lake

street from Main street to Commercial street; in Commercial street from Lake street to Canal street; in Canal street from Commercial street to Erie street; in Erie street from Canal street to Main street, crossing Pearl street; in Main street (west of center walk) from Erie street to Church street, crossing Niagara to Main street; in Main street from Niagara to Court street; in Church street from Main street to Franklin street; in Terrace from Erie street to Swan street; in Court street from Main street to Georgia street; in Clinton street from Main street to Ellicott street; in Georgia street from Court street to Buffalo harbor; in Front avenue from Court street to Jersey street; in Jersey street, crossing the Erie canal, Fourth street, Lakeview avenue, Seventh street, and Niagara street, from Buffalo harbor to Prospect avenue; in Prospect avenue from Jersey street, crossing Porter avenue to Massachusetts street; in Massachusetts street from Prospect avenue to Fargo avenue; in Fargo avenue from Massachusetts street to Hampshire street; in Hampshire street from Fargo avenue to Plymouth avenue; in Plymouth avenue, crossing School and Albany streets, and Ferry street, to Breckenridge street; in Dewitt street from Breckenridge street to Scajaquada creek, crossing Scajaquada creek, over private property to Winans street; in Winans street to Watts street; in Watts street to and across Tonawanda street, crossing railroad properties (overhead) to Parish and Thompson streets; in Thompson street from Parish street to Farmer street; in Farmer street from Thompson street to Niagara street; in Niagara street from Farmer street to O'Neil street; in O'Neil street from Niagara street to Tonawanda street, and from the east of Watts street over private property to Amherst and Kail streets; in Kail street from Amherst street to Austin street; in Austin street from Kail street to Pacific street; in Pacific street from Austin street to Hertel avenue, across private property to Grace street; in Grace street to Niagara street.

In Massachusetts street from Fargo avenue to West Utica street; in West Utica street to Main street, crossing Main street; in East Utica street to Fillmore avenue; in Fillmore avenue from French street north to Main street; in Main street from Fillmore avenue to Vernon street; in Vernon street from Main street to Fairfield street; in Fairfield street from Vernon street to Amherst street; in Amherst street from Fairfield street to Kail street.

In Franklin street from Erie street to North street; in North street from Franklin street to Main street, crossing Main street; in East North street from Main street to Elm street; in Elm street from Best street to Swan street.

In Linwood avenue from North street to Balcom street; in Balcom street from Linwood avenue to Oxford place; in Oxford place from Balcom street to West Delavan avenue; in West

Delavan avenue to Main street, crossing Main street; in East Delavan avenue to Moselle street and crossing private property from Oxford place to Linwood avenue, between Bouck and Delavan avenues; in Linwood avenue from the last described crossing to West Delavan avenue; in West Delavan avenue to Dewitt street; in Bouck avenue from Dewitt street to Oxford place; in Ashland avenue from Bouck avenue to West Delavan avenue; in Norwood avenue from West Delavan avenue to Forest avenue; in Forest avenue from Norwood avenue to Elmwood avenue; in Elmwood avenue from Forest avenue to the north line of the city of Buffalo.

In Carlton street from Elm street to Locust street; in Locust street from Carlton street to East North street; in East North street from Locust street to Grape street; in Grape street from Cherry street to Best street; in Best street from Elm street to Genesee street, crossing Genesee street; in Walden avenue to Moselle street; in Moselle street from Walden avenue to French street; in French street from Fillmore avenue to Moselle street; over private property from Moselle street to Genesee street, crossing Genesee street; in Doat street from Genesee street to and across the east line of the city of Buffalo to the Pine Hill road in the town of Cheektowaga; in the Pine Hill road from Doat street to Sugar street; in Sugar street from the Pine Hill road and crossing the east line of the city of Buffalo to Bailey avenue; in Bailey avenue from Sugar street to Connelly street; in Connelly street from Bailey avenue to Olympic street, crossing Olympic street; in Warwick avenue to Kensington avenue; in Kensington avenue from Warwick avenue to Main street; in Wyoming avenue from Warwick avenue, crossing East Delavan avenue; in Moselle street from East Delavan avenue to French street.

In South Division street from Erie street, crossing Main street, to Smith street; in Spring street, from South Division street to William street; in Cherry street from Grape street to Michigan street; in Michigan street from Cherry street to East Tupper street; in East Tupper street from Michigan street to Ellicott street; in Ellicott street from Goodell street to Exchange street; in Goodell street from Ellicott street to Washington street; in Washington street from Goodell street to High street; in High street from Washington street to Main street; in Main street from High street to North street; in Carroll street from Ellicott street to Wells street; in Wells street from Carroll street to Exchange street; in Exchange street from Wells street to Ellicott street.

In East Chippewa street from Ellicott street to Main street; crossing Main street; in West Chippewa street from Main street to Georgia street; in Georgia street from West Chippewa street to Front avenue.

In William street from Spring street to Mortimer street; in Mortimer street from William street to Peckham street; in Peckham street from Mortimer street, to Lombard street; in Lombard street from Peckham street to Broadway, crossing Broadway; in Beck street from Broadway to Stanislaus street; in Stanislaus street from Beck street to Mills street; in Mills street from Stanislaus street to Best street.

In Swan street from the Terrace, crossing Main street to Cedar street; from Swan street to North Division street; in Chicago street from Swan street to Perry street; in Chestnut street from Swan street to North Division street; from Chestnut street to Spring street; in West Genesee street from Erie basin, crossing Niagara street to Main street, crossing Main street; in East Genesee street to Ellicott street.

In Hopkins street from south line of the city of Buffalo to the Abbott's Corners road; in the Abbott's Corners road from Hopkins street to Payson avenue; from Abbott's Corners road to and across Bailey avenue; over private property from Bailey avenue, crossing Buffalo creek to Melvin place; in Melvin place from Buffalo creek to and across Elk street; in Keppel avenue from Elk street to Seneca street; over private property from Seneca street to Little avenue; in Little avenue to Bailey avenue; in Bailey avenue from Little avenue to Doat street.

In South street from Ohio street to Hamburg street; in Hamburg street from South street to Perry street; in Sandusky street from Hamburg street to Smith street; in Smith street from Sandusky street to Broadway; in Broadway from Smith street to Herman street; in Herman street from Broadway to Best street; in Rohrer avenue from Best street to East Ferry street.

In Perry street from Mississippi street to Orlando street; in Orlando street from Perry street to Prenatt street; over private property from Prenatt street, crossing Buffalo river and Abbott's Corners road to Abbey street; in Abbey street from Abbott's Corners road to Lackawanna avenue; in Lackawanna avenue from Abbey street to Germania street; in Pembina street from Germania street to Hopkins street.

Twelfth. The name and post-office address of each subscriber to this certificate, and the number of shares of stock he agrees to take in such corporation, are as follows:

Name and Post-office Address.	Number of shares.
Edwin G. S. Miller, Buffalo, N. Y.....	66
Joseph B. Mayer, Buffalo, N. Y.....	66
Tom L. Johnson, Cleveland, Ohio.....	66
Richard Ladenburg, New York city, N. Y.....	66
John K. Page, New York, N. Y.....	66

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Name and Post-office Address.	Number of shares.
Louis Kahn, New York, N. Y.....	66
Leonard B. Crocker, Buffalo, N. Y.....	66
Washington Bullard, Buffalo, N. Y.....	66
Herbert P. Bissell, Buffalo, N. Y.....	66
George J. Sicard, Buffalo, N. Y.....	12
Wilson S. Bissell, Buffalo, N. Y.....	12
Jacob Lang, Buffalo, N. Y.....	12
Henry A. Miller, Buffalo, N. Y.....	12
Henry Leigh, Buffalo, N. Y.....	12
Alfred D. Sears, Buffalo, N. Y.....	12

In witness whereof, we have executed and acknowledged this certificate in duplicate, and have subscribed our respective names names hereto.

Dated the 26th day of *October*, 1895.

EDWIN G. S. MILLER.
JOSEPH B. MAYER.
TOM L. JOHNSON.
GEORGE J. SICARD.
JOHN K. PAGE.
LOUIS KAHN.
LEONARD B. CROCKER.
HERBERT P. BISSELL.
RICHARD LADENBURG.
WILSON S. BISSELL.
JACOB LANG.
HENRY A. MILLER.
HENRY LEIGH.
ALFRED D. SEARS.
W. BULLARD.

STATE OF NEW YORK, }
COUNTY OF ERIE — CITY OF BUFFALO. } ss.:

On this 26th day of October, 1895, before me personally came Edwin G. S. Miller, Joseph B. Mayer, John K. Page, Louis Kahn, Leonard B. Crocker, Washington Bullard, Herbert P. Bissell, Richard Ladenburg, Wilson S. Bissell, Jacob Lang, Henry A. Miller, Henry Leigh, George J. Sicard and Alfred D. Sears, to me known to be the persons described in and who executed the foregoing certificate and severally duly acknowledged to me that they executed the same for the purposes therein mentioned.

WILLIAM G. MEADOWS,
Commissioner of Deeds for Buffalo, N. Y.

STATE OF NEW YORK, }
COUNTY OF ERIE — CITY OF BUFFALO. } ss.:

On the 28th day of October, 1895, before me personally came Tom L. Johnson, to me known to be one of the persons described in and who executed the foregoing certificate and duly acknowledged to me that he executed the same for the purpose therein mentioned.

WILLIAM G. MEADOWS,
Commissioner of Deeds for Buffalo, N. Y.

STATE OF NEW YORK, }
COUNTY OF ERIE — CITY OF BUFFALO. } ss.:

Edwin G. S. Miller, Joseph B. Mayer, and John K. Page, being duly sworn, each for himself, deposes and says that he is a director named in the foregoing certificate of incorporation; that at least \$1,000 of capital stock for every mile of road proposed to be built has been subscribed thereto and paid in good faith and in cash to the directors named in the certificate, and that it is intended in good faith to build, maintain and operate the road mentioned therein.

EDWIN G. S. MILLER.
JOS. B. MAYER.
JNO. K. PAGE.

Severally sworn to before me, this 28th day of October, 1895.

WILLIAM G. MEADOWS,
Commissioner of Deeds for Buffalo, N. Y.

LINES OF THE BUFFALO RAILWAY SYSTEM.

Main Street Line.

Runs from corner of Main and Ohio streets on Main to city line. Returning over same route.

Niagara Street Line.

Runs from O'Neil street (city line) along Tonawanda street and Hertel avenue to Niagara street, Niagara to Pearl street, Pearl to the Terrace, Terrace to Main street. Returning on Main street to Niagara street, Niagara, Hertel avenue and Tonawanda street to point of starting.

Elmwood Avenue Line.

Runs from the corner of Forest and Elmwood avenues on Elmwood, Allen, Main, Huron, Pearl, Terrace to Main street. Re-

turning on Main street to Virginia street, Virginia to Elmwood avenue to point of starting. During the summer this line runs to the park entrance at Lincoln parkway.

Broadway Line.

Runs from Broadway and city line on Broadway to Lafayette street, Lafayette to Main street, Main to Seneca street, Seneca to Pearl street, Pearl to the Terrace, Terrace to Main. Returning on Main to Clinton street, Clinton to Washington street, Washington to Broadway, Broadway to city line.

Albany and School Street Line.

Runs from corner of School street and Plymouth avenue on Plymouth to Hampshire street, Hampshire to Normal avenue, Normal to Connecticut street, Connecticut to Niagara street, Niagara to Main street, Main to Ohio street. Returning on Main to Niagara street, Niagara to Connecticut street, Connecticut to Fourteenth street, Fourteenth to Albany street, Albany to School street, School to point of starting.

Michigan Street Line.

Runs from the corner of Main and Exchange streets on Exchange to Michigan street, Michigan to its junction with Main street at Dexter street. Returning on Dexter to Masten street, Masten to East North street, East North to Michigan street, Michigan to Exchange street, Exchange to the point of starting.

Jefferson Street Line.

Runs from corner of Exchange and Main streets on Exchange to Louisiana street, Louisiana to Seneca street, Seneca to South Cedar street, South Cedar street to Swan street, Swan to Jefferson street, Jefferson to Ferry street, Ferry to Michigan street, Michigan to Main street. Returning on Dexter street to Masten street, Masten to Ferry, Ferry to Jefferson, Jefferson to Swan, Swan to South Cedar, South Cedar to Seneca, Seneca to Louisiana, Louisiana to Exchange, Exchange to point of starting.

Baynes and Hoyt and Allen and Ferry Lines.

These lines are practically one, except as noted below:

Runs from corner of Michigan and Exchange streets on Exchange to Main street, Main to Allen street, Allen to Wadsworth street, Wadsworth to Fourteenth street, Fourteenth to Rhode Island street, Rhode Island to Chenango street, Chenango to

Ferry, where the lines divide, one-half the cars running over Ferry to Niagara street, the other half running north on Baynes street to Forest avenue.

Returning from Baynes and Forest avenue on Forest to Hoyt street, Hoyt to Ferry street, Ferry to Hampshire street and from corner of Niagara and Ferry streets on Ferry to Hampshire, where the lines join and run along Hampshire to Winter street, Winter to Brayton street, Brayton to Seventeenth street, Seventeenth to Connecticut street, Connecticut to Normal avenue, Normal to York street, where the line divides, the Baynes and Hoyt cars running on York to Plymouth avenue, Plymouth to Jersey street, and the Allen and Ferry running on Normal to Jersey, Jersey to Plymouth avenue, where the lines join and run along Plymouth to Hudson street, Hudson to Cottage street, Cottage to Day's park, where the lines again divide, the Allen and Ferry running through Day's park to Allen street, Allen to Main street, Main to Virginia, and the Baynes and Hoyt running along Cottage street to Virginia street, Virginia to Main, where the lines join and run along Main street to Seneca street, Seneca to Michigan street, Michigan to the point of starting.

Elk Street Line.

Runs from corner of Main and Exchange street on Main to Perry street, Perry to Michigan street, Michigan to Elk street, Elk to Seneca street. Returning over same route.

Seneca Street Line.

Runs from the corner of Main and Seneca streets on Seneca to the city line. Returning over same route.

West Avenue and Grant Street Line.

Runs from the corner of New York Central belt line and Military road, on Military road, to Grant street, Grant to Hampshire street, Hampshire to Normal avenue, Normal to Jersey street, Jersey to Plymouth avenue, Plymouth to Hudson street, Hudson to West avenue, West to Carolina street, Carolina to Niagara street, Niagara to Huron street, Huron to Pearl street, Pearl to the Terrace, Terrace to Main street. Returning on Main to Niagara street, Niagara to Carolina street, Carolina to West avenue, West to York street, York to Plymouth avenue, Plymouth to Hampshire street, Hampshire to Grant street, Grant to Military road, Military road to New York Central belt line.

Connecticut, Allen and Virginia Line.

Runs from the corner of Connecticut and Niagara streets on Connecticut to Normal avenue, Normal to Jersey street, Jersey to Plymouth avenue, Plymouth to Hudson street, Hudson to Cottage street, Cottage to Day's park, Day's park to Allen street, Allen to Main street, Main to Virginia street. Returning on Virginia to Elmwood avenue, Elmwood to Allen street, Allen to Wadsworth street, Wadsworth to Fourteenth street, Fourteenth to Connecticut street, Connecticut to the point of starting.

Forest Avenue Line.

Runs from the corner of Main and Harvard place on Harvard to Delavan avenue, Delavan to Delaware avenue, Delaware to Forest avenue, Forest to Niagara street. Returning on Forest avenue to Delaware avenue, Delaware to Delavan avenue, Delavan to Linwood avenue, Linwood to Balcom street, Balcom to the point of starting.

Hertel Avenue Line.

Runs from the corner of Main street and Hertel avenue along Hertel to Elmwood avenue. Returning over same route.

Genesee Street Line.

Runs from corner of Washington and Exchange streets on Washington to Genesee street, Genesee to Pine Hill cemetery. Returning over same route.

Kensington Avenue Line.

Runs from corner of Exchange and Washington street on Washington to Genesee street, Genesee to Kehr street, Kehr to Ferry street, Ferry to Grider street, Grider to Kensington avenue, Kensington to Bailey avenue, Bailey to city line. Returning on Bailey avenue to Kensington avenue, Kensington to Grider street, Grider to Ferry street, Ferry to Kehr street, Kehr to Genesee street, Genesee to Main street, Main to Exchange street, Exchange to the point of starting.

East Ferry Street Line.

Runs from corner of Main and Ferry streets on Ferry to Bailey avenue, Bailey to Delavan avenue, Delavan to city line. Returning over same route.

William Street Line.

Runs from corner of Main and North Division on Main to Eagle street, Eagle to Michigan street, Michigan to William street, William to city line. Returning on William street to Michigan street, Michigan to North Division street, North Division to point of starting.

Cazenovia Street Line.

Runs from corner of Cazenovia and Seneca streets on Cazenovia to Abbott road. Returning over same route.

Clinton Street Line.

Runs from corner of Main and North Division streets on Main to Eagle street, Eagle to Emslie street, Emslie to Clinton street, Clinton to Bailey avenue. Returning on Clinton street to Michigan street, Michigan to North Division street, North Division to the point of starting.

Sycamore Street Line.

Runs from corner of Washington and Exchange streets on Washington to Huron street, Huron to Sycamore street, Sycamore to Walden avenue, Walden to city line. Returning over same route.

Bailey Avenue Line.

Runs from corner of Elk and Seneca streets on Elk to Bailey avenue, Bailey to Triangle street, Triangle to South Park avenue, South Park to Limestone hill. Returning over same route.

Niagara Falls Line.

Runs from corner of Main street and the Terrace on Main to Niagara street, Niagara to Connecticut street, Connecticut to Plymouth avenue, Plymouth to Hampshire street, Hampshire to Grant street, Grant to Military road, Military road to city line. Returning on Military road to Grant street, Grant to Hampshire street, Hampshire to Normal avenue, Normal to Connecticut, Connecticut to Niagara street, Niagara to Pearl street, Pearl to the Terrace, Terrace to Main street.

INCREASE IN POPULATION AND SURFACE STREET RAILROAD
FACILITIES.

Population of Buffalo, 1890, 255,664; population in 1895 (police census), 335,000, or an increase of 31 per cent.

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Miles of street railway, 1890, 63.75; in 1895, 143 miles, or an increase of 124 per cent. (this is of June 30th, since which time three and one-half miles of track have been laid).

Car mileage in 1890, 3,001,292; in 1895, 7,686,150, or an increase of 156 per cent.

Passengers carried in 1890, 16,024,847; in 1895, 44,964,609, or an increase of 180 per cent.

Cars operated in 1890, 93; operated to-day, 301, or an increase of 224 per cent.

Since 1890, larger cars have been placed in service, which has increased the capacity of the cars about 35 per cent. over those used in 1890.

FOR THE FISCAL YEAR ENDING JUNE 30, 1895.

Population of Buffalo.....	335,000
Average passengers per day, of the Buffalo railway system, including transfers.....	123,190
Passengers carried during year, including transfers.....	44,964,609
Receipts for year from passengers.....	\$1,577,158 97
Kinds of transfers	264

COMPARATIVE STATEMENT OF THE BUFFALO RAILWAY SYSTEM OF TRACK MILEAGE, CAR MILEAGE, PASSENGERS CARRIED PER DAY AND YEAR FOR THE FOLLOWING YEARS ENDING JUNE 30.

YEAR.	Track mileage	Car mileage.	Passengers carried in year.	Passengers carried per day.
1890	63.765	3,001.292	16,024,847	43,903
1891	82.586	3,032.229	17,408,102	47,693
1892	99.526	4,475.573	22,506,552	61,493
1893	120.528	6,454.289	37,820,518	103,617
1894	132.673	7,477.499	41,156,579	112,758
1895	143.070	7,686.150	44,964,609	123,190

Since June 30, 1895, the company has added 3.430 miles of track, making a grand total of 146½ miles of track.

IX.

IN THE MATTER OF THE APPLICATION OF THE KINGS, QUEENS AND SUFFOLK RAILROAD COMPANIES FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

January 21, 1896.

John Sabine Smith, counsel for the applicant, the Kings, Queens and Suffolk Railroad Company.

William J. Kelly, counsel for the Long Island Railroad Company, and the New York and Rockaway Beach Railroad Company, in opposition.

This is an application for a certificate under section 59 of the Railroad Law. The Kings, Queens and Suffolk Railroad Company, the applicant above named, asks the Board to certify under the statute that the conditions of the statute have been complied with, and that public convenience and a necessity require the construction of its railroad as proposed in its articles of association. As is customary in proceedings under this section, the applicant presents to the Board its petition, setting forth that it is a corporation duly organized and existing under and by virtue of the laws of the State; that its projected line of road is entirely within the county of Queens; that it has undertaken the project of building said road in good faith, and that public convenience and a necessity require the construction of said railroad as proposed in the articles of association. The Board does not consider itself authorized to declare one of these allegations to be less material than another. It is true that ordinarily the first allegation, to wit, the one wherein the organization and legal existence of the corporation are set forth is not drawn into controversy. Neither is the Board unfamiliar with that wholesome legal principle which declares that the legal existence of a corporation may not usually be attacked collaterally. The ingenious, but, as it seems to the Board, the excessively technical argument of the applicant's counsel upon the question whether the Board may or should regard evidence which throws doubt on the validity of the applicant's organization has not been overlooked. But its reasoning is not acceptable. It is the policy of the law for sufficient reasons in many instances to treat an imperfect organization as equivalent in certain respects to an organization that can not be questioned. This policy is carried out by designating such imperfect organizations as *de facto* corporations. The object of this policy of the law is to restrict within the narrowest possible limits the damage or necessary confusion arising from the activity of such an organization. In the present instance the argument that the applicant is a *de facto* corporation and that the Board, there-

fore, must treat it as if it were a *de jure* corporation, tends in another direction. In effect, the applicant asks the Board to enlarge the sphere of possible injury, and to intensify the confusion necessarily created by the introduction into the business community of a person or entity which asserts itself to be what, in true legal intendment, it is not. The Board, therefore, finds that in this case it must address itself to the first question thus presented in the applicant's petition, although that question is an unusual one. It is: Is there before the Board such an applicant as is described in section 59? If not, there is no application. Section 59 refers to "railroad corporations hereafter formed under the laws of this State." To form such corporations it is necessary to comply with certain statutory requirements. One of these requirements is that a certificate of incorporation shall be filed and that "such certificate shall have indorsed thereon or annexed thereto to be taken as a part thereof, an affidavit of, at least, three directors that, at least 10 per cent. of the minimum amount of capital stock authorized by law has been subscribed thereto, and paid in good faith and in cash to the directors named in the certificate." * * * "The filing of every certificate where the amount of stock required by this section has not been in good faith subscribed and paid in cash, shall be void." This latter clause deals with the fact of payment, and not with the sufficiency of an attempted or formal compliance with the statute. The proposed corporation is not formed, if it has not done the thing sworn to in the affidavit. Regularity of record can not save it. A properly worded affidavit can not save it, nor can the Board rest its action herein upon such an affidavit or upon regularity of record. The discretion conferred by section 59 is such that the Board must do all that is practicable to ascertain that it is not giving privileges to those who are not qualified to receive them. The Board is not authorized to give the certificate asked for to non-existent or pretended corporations. The Board can not make such a grant blindly or in spite of significant evidence. In this case there is significant evidence. There was no cash payment as exacted by the statute. A check was drawn by a person not a subscriber to the order of three directors. It was not transferred to the applicant's account. It was not collected in any way nor was it indorsed so that it could have been collected or deposited to the credit of the company. Had this method of complying with the statute been carried out, it was not one to be commended. It was not carried out, and, whether it was an evasion of law or compliance with law, it failed. The applicant's claim to be a railroad corporation, such as section 59 contemplates, rests, therefore, upon a certificate of incorporation declared by statute to be void. This fact alone

should cause the Board to withhold the certificate now asked for. But it may be well to consider the merits of the application in order that upon review a court may know in what esteem they are held by the Board.

Passing for the time the questions arising from the peculiar nature of the applicant's structure, the Board is of the opinion that no sufficient necessity for the construction of the road has been shown. There is, on the contrary, substantial evidence indicating that the territory and the population to be served by the proposed road are well supplied with railroad facilities.

The projected line is to extend from the easterly boundary of the city of Brooklyn to the village of Far Rockaway. The first witness called on behalf of the applicant, Eugene R. Smith, the engineer, states that the terminus of the proposed railroad is at the easterly end of the Kings County Elevated Railroad, and that the applicant's railroad runs from this point, which is on Liberty avenue, in an easterly direction touching Aqueduct, which, from his description, is evidently an extremely unimportant place or station, then at Inwood and then reaching Far Rockaway, although, the witness qualifies this statement by the language "unless it might be said to touch Lawrence," but on further questioning he says, "I do not know exactly the village boundaries. It goes between Far Rockaway and Lawrence, nearer Far Rockaway than Lawrence." He also says, "It goes through a farming country; there are some houses, but I am not familiar with the different features along the route." It also appears from his testimony, as well as from the map, that the proposed road crosses the Long Island Railroad between Inwood and Far Rockaway. "May be in Far Rockaway. It also crosses the New York and Rockaway Beach Railroad at Aqueduct." This witness's testimony is to the effect that the line of the proposed railroad is separated from the existing line of the Long Island Railroad between Liberty avenue and Inwood by distances averaging one-half a mile to a maximum distance of three or four miles. "Something like that." Being asked if the proposed road is within sight of the Long Island Railroad, between Liberty avenue and Inwood, he says, "Yes; in portions of the way and portions not." He also states that it crosses the Long Island Railroad, that is the branch now operating from Valley Stream to Far Rockaway, at Inwood, and that it crosses the New York and Rockaway Beach Railroad at Aqueduct. From this witness's testimony and from the testimony at large, it appears, and from other sources is known to the Commission to be the fact, that the terminal points of this proposed railroad are now connected by two railroad lines which at present form parts of the Long Island Railroad system.

The testimony of Mr. Dunton, the president of the Kings, Queens and Suffolk Railroad Company, upon this branch of the case, is as follows:

Q. Please explain your answer? A. Well, the New York and Rockaway Beach Railroad does not run from Brooklyn to Far Rockaway; it runs from Long Island City, or a junction out east of Long Island City to Rockaway Beach, and from Brooklyn to Far Rockaway there is no railroad, as I understand it, none whatever; the Long Island Railroad — if you go from Brooklyn to Far Rockaway by the Long Island road, you have to go around by Jamaica and Valley Stream and then down to Far Rockaway; you can get there; it is true.

Q. Do you know there is any change of cars by either of these lines? A. Yes, sir.

Q. Where are the changes on each road? A. From the Brooklyn bridge you change to Flatbush avenue, and if you go over the trestle work, part by the Long Island Railroad and part by the New York and Rockaway Beach, you change again at Woodhaven Junction; and by Valley Stream you change at Flatbush Avenue station and then at Jamaica, and then again sometimes at Valley Stream.

Q. Then I understand it is necessary by one of them to make this change at Flatbush avenue from Brooklyn bridge? A. Yes, sir.

Q. And the second change? A. At Woodhaven Junction.

Q. And the other goes by the way of Jamaica? A. Jamaica and Valley Stream.

Q. Do you know what is the distance, at least approximately, by each of these ways of going? A. I should think by the Rockaway Beach road over the trestle, and around through Arverne, it was 12 or 13 miles, and by Valley Stream I should think it was 16 or 17; that is, approximate.

Q. Have you any map with you that would show this? A. Yes, sir (handing map to Mr. Smith).

Q. I have here what is called Rand & McNally's Road Map of the country around New York; with the permission of the Commission (of course, we do not vouch for this map; it was only purchased in the usual way) I will ask the witness to point out on that those two roads, and, perhaps, if you have a pencil, just dot them? A. I will simply say, if I may be permitted to, to the Commission, I have this map which shows correctly, or very nearly correctly, the routes of the Long Island Railroad, and, also, I have indicated on it the route we propose to take; I have just made a black mark with checks across it, showing precisely the route we propose to take, and the other routes are there.

Mr. Smith.—This map, Mr. Dunton states that he has checked a black line to show the line of this route and the others are easily discernible. (Handing map to the Commission.)

Mr. Smith to witness:

Q. Now, Mr. Dunton, will you describe the route of this road as you understand it to be? A. This road starts at the line of the city of Brooklyn at the terminus of the Kings County Elevated Railroad; it goes out Liberty avenue about 1,300 feet; it then turns and goes south from Liberty avenue to the aqueduct, that is, the Brooklyn city water-works aqueduct; it follows the line of the aqueduct to Aqueduct Station, where it crosses the New York and Rockaway Beach Railroad; from there it goes for about 300 or 400 feet, perhaps 500, along the aqueduct and then in a direct line to the head of the Bay in Jamaica, and then directly down to Far Rockaway village.

Q. Is this nearly a direct route, as nearly as it can be made, from its origin on the Brooklyn city line to Far Rockaway? A. No, sir; just direct would take you across the bay and we would go around the bay.

Q. Then you go as nearly direct as you can to Far Rockaway? A. Yes, sir.

Q. This does not go upon the water, does it? A. No, sir.

Q. It keeps upon the land? A. The land.

Q. The Brooklyn, New York and Rockaway Beach Road, does that go upon the water? A. It crosses Jamaica Bay.

Q. What is the character, so far as the population is concerned, of the country through which this road passes, or would pass? A. Well, to a large extent it is a country that is a farming country, that lies right adjoining the city of Brooklyn, only waiting for means of transportation to develop rapidly; it goes through the south part of Jamaica, where there are no railroads; at Aqueduct, of course, it crosses the New York and Rockaway Beach Road, and from there on goes through a very desirable country that is sparsely settled but valuable, and could be very rapidly developed, and from there on to Inwood, where there is a large population, to Far Rockaway.

It is clear from the testimony already cited that the proposed road would merely duplicate existing facilities. It is evidently desired by this witness that it shall duplicate such existing facilities; this witness speaks with emphasis and with repetition of the fact that the present service is dilatory and involves frequent change of cars.

These citations are made from witnesses introduced on behalf of the petitioner. The testimony offered on behalf of the Long Island Railroad, which appeared in opposition to the application, is strong both in substance and in detail. Mr. Smith, the traffic

manager of the Long Island Railroad, states that, between Brooklyn and Far Rockaway on the Long Island Railroad, and on the New York and Rockaway Beach Railroad, through trains are run daily to the number of 39 or 40 in the summer; that there is one freight train each way daily; that a single fare to Far Rockaway is 50 cents; that an excursion is 80 cents, and annual commutation rates are such as to enable one to make a round trip for 20 cents, or for 22, if he commutes monthly, and that a regular excursion ticket is sold at the rate of two cents a mile, single tickets being at the rate of two and one-half cents a mile. Also family trip tickets at the rate of one and eight-tenths cents a mile are sold, the commutation rate being at less than a cent a mile. The same witness states that in winter 29 trains are run to and from Far Rockaway. The same witness declares that there has been no complaint from Far Rockaway as to the lack of facilities, and that the road has increased the number of trains without being requested so to do. He declares the present service to be excellent and to be sufficient. The running time over the New York and Rockaway Beach Railroad, from Far Rockaway to Flatbush avenue, is about 38 minutes.

Thus, it appears that the applicant desires to furnish points already supplied with what seems to be at least a sufficient service, and that applicant's road does not touch and does not promise to directly develop any region or point not now supplied with railroad facilities.

Some reference must be made to the pamphlets and circulars put in evidence showing hostility on the part of the witness, Dunton, against the Long Island Railroad. Mr. Dunton is the president of the applicant's road. He is also the president of the Kings, Queens and Suffolk Company. This latter company is an interior organization of the class known as construction companies. Mr. Dunton, as the projector of this company, has secured great numbers of small subscriptions, it is stated, and this company is to furnish the capital to build the proposed road. Mr. Dunton's statements and expressions of hostility hereinafter cited seem pertinent and important to the Board. The applicant's counsel argues that these documents only show animus on the part of Mr. Dunton, and that they do not disclose a similar ill-feeling on the part of the other directors or incorporators of the applicant's railroad company. But the counsel who makes this argument characterized Mr. Dunton as the "genius" of the enterprise upon the hearing before the Board, and the characterization is not unjust. Mr. Dunton's activity has brought these two companies into being more than any other single cause, and that he has and still has a feeling of great hostility, expressed in no uncertain language, against the exist-

ing systems of railroads on Long Island is a fact of consequence. He has professed a desire to injure the existing railroad, and it can not be doubted that if given an opportunity he would bend his energies to the realization of that desire. In securing subscriptions to the Construction Company, he has appealed quite as much to the supposed prejudices or animosity of possible subscribers as to other and more legitimate business consideration. The Board conceives it to be its duty to take notice of this aspect put upon the petitioner's enterprise by the assertions, activity and recent history of its chief promoter. Such an aspect seems to the Board to be unbusinesslike and outside of the contemplation of the statutes under which railroads are incorporated, and under which this Board takes part in giving them the powers necessary to construct. The Board is aware that there is much unsound popular thinking as to the relation of the public and of public agencies to existing enterprises, especially if those enterprises take the form of aggregations of capital. In this case even the applicant's counsel seems to have been somewhat carried away by the animus of his client. In the brief supporting the application (*point aux*) this language is used: "At the present time this great watering place, know as Far Rockaway, with its environs, is entirely at the mercy of one railroad system. We might say, of one railroad, as the two so-called lines are operated as one railroad, out of one office, by one master of transportation, running over the same road from Woodhaven to Brooklyn, and terminating in one railroad station, viz., Flatbush avenue. This gives, absolutely, no opportunity for competition. In other words, rates and facilities are just what that one road chooses to make them."

This argument takes it for granted that for so great a watering-place as Far Rockaway to be at the mercy of one railroad system constitutes a wrong crying for immediate remedy. The fact is there is no such question of wrong in the situation. The question is one of fact. If existing facilities are sufficient, the necessity for more does not exist, and the application must fail. It is an abuse of language to say that in such a case any community is left in the grasp of a monopoly.

The foregoing conclusions are called forth by testimony, from which the following extracts are taken:

Mr. Kelly to witness:

Q. I read from this pamphlet that has been introduced in evidence: "Now, what will compete with the Long Island Railroad; what are we justified in encouraging and supporting; what can we put in with the feeling that it will not only pay us handsomely, but at the same time, and above all, will take this glorious island

out of the hands of the present monopoly?" Did you say that?
A. Yes, sir; I did, emphatically.

Q. That is your sentiment now? A. Yes, sir; stronger than ever.

Q. Did you also say in regard to the situation on Long Island, "It now pays every year to the Long Island Railroad Company, just half what it will cost to construct the bicycle system to every paying point?" A. Yes, sir.

Q. And did you say this: "If there was no railroad upon Long Island at the present time, how easily it would be to raise, for a surface steam road, three or four times the sum required to build the bicycle line to every paying point. Because there is a road there and because the owners of that road have become so fixed in the belief concerning their position, and because others who do not understand that position, are led to believe likewise, it becomes necessary for us to make comparisons. If, as the Long Island Railroad claims, we shall be powerless to dislodge it, then it were better for us not to build. If, as we claim, their structure will topple almost immediately upon the advent of ours, then we have every right and reason to go on." Is that your sentiment, too? A. Will you allow me—

Q. Did you say that? A. I did; yes.

Q. Did you say this: "The Long Island Railroad has always been thought most strongly entrenched, for the reason that a competitor would require a larger capital than \$30,000,000 for equal terminal facilities, right of way and construction. We admit that, aside from the one rail system, competition with the Long Island Railroad is impossible, but allege that it is most susceptible to the attack with our modern appliances, of any steam road in the country, because of the unique character of its business?" A. Yes, sir.

Q. You said that? A. Yes.

Q. I believe, Mr. Dunton, that you have carried your interest in the Long Island Railroad far enough to issue circulars addressed to the passengers on the road, instructing them how to pay their fare, is that so? A. I don't know what you mean.

Q. Do you recognize that circular? (Handing paper to witness.)
A. Yes, sir.

Q. This is also issued by you? A. Yes, sir.

Q. Within the past year? A. I don't know whether it is a year or two years.

Mr. Kelly.—This is a circular signed by the witness, in reference to a measure pending in Albany. He advises the passengers to "buy no tickets at all." (Reading from the circular.) "Pay all your fares in cash to conductors. Pay them from station to station only. Give them as large bills each time as possible.

This course will necessitate 10 to 20 conductors and a bank on every train, and it will take just about two weeks to show that the people are equal to this emergency. You are the masters, unless you prefer to be the serfs. Stand by the man in Albany, who, true to his pledge, is standing by you. You have waited long and patiently to get men there who serve their constituents. Don't exchange your birthright for a mess of pottage. Don't surrender when victory is just about to perch upon your banner. Don't! Don't!! Don't!!! Frederick W. Dunton." When was this two-cent fare bill? A. Vacheron two-cent fare bill?

Q. When was it; last spring? A. Last winter, wasn't it, Mr. Kelly; I have just forgotten, myself.

Q. I believe that you have also stated that this bicycle railroad is to contain facilities for bicycle tracks, safety bicycles underneath? A. No.

Q. Haven't you so stated? A. Oh, no.

Q. Look at that reported interview with you in the Brooklyn Times (handing paper to witness); was that—

Mr. Smith.—If your honors please, if we go into this—

Commissioner Beardsley.—I think this all goes to the question of good faith. (Exception.)

Q. Did you make those statements? A. Certainly, I did.

Q. You did? A. Yes.

Q. Did you say that one of your ideas, in connection with this bicycle railroad, was the establishment at 10 or 15 suitable points of something in the nature of roof gardens, the floors being at the grade of the bicycle railroad structure, and all having entrances from that structure as well as from the ground?

Mr. Kelly to witness:

Q. This is one of your statements? A. That is what I said to the reporter.

Q. And you said that you would have all the appurtenances of a first-class theater? A. I didn't state that I would; that is in that article, but if you will allow —

Q. You have stated to the Commission that you did have this interview with the reporter? A. I did, but I will answer your question —

Q. Did you state to him that it was part of your idea to have these roof-garden performances? A. Not in connection with the railroad.

Q. Did you say at 10 or 15 points on the railroad? A. I stated just what is in there.

Commissioner Chapin.—Do those statements apply to what is now before us?

Mr. Kelly.—Let me read it; the witness says he stated it (reading from the interview; the head-lines first): "Here's a cycle

path. To extend to every part of Long Island. The scheme of F. W. Dunton. To be built each side of the bicycle railroad. There will be shelters, and roof gardens along the route are a possibility. A plan that will meet with the indorsement of every wheelman." I pass the portion relating to the bicycle path.

Mr. Smith.—We insist it all be read if he reads any part of it.

Commissioner Beardsley.—I suppose you can call attention to whatever parts he leaves out, if you desire to.

Mr. Kelly (reading from the article).—"One of these ideas is the establishment at 10 or 15 suitable points of something in the nature of roof gardens, the floors being at grade with the bicycle railroad structure, all having entrances from that structure as well as from the ground, and all fitted with the appurtenances of a first-class theater, and to be under one management, and continuous performances similar to those at Keith's and Proctor's, light operas and plays constantly on during the three summer months. Details could be so arranged that the same performers could appear at half a dozen points each evening, going from one to the other garden in electric cars, and by this process a comparatively small company of the very best artists furnish amusement to a large number of people at a trifling admission fee for each, and yet sufficient money be realized at all points to satisfy the railroad company as well as the managers of the entertainment and enable the latter to give as good a show as could be seen in the largest cities in the world."

* * * * *

Q. I hand you a paper purporting to be an extract from Poor's Railroad Manual (handing witness paper); was that issued by you? A. Yes, sir.

Q. That was issued by you with the circular that has been offered in evidence? A. Well, I don't know that it was with that circular, but it was issued by me.

Mr. Kelly.—I offer this in evidence.

Mr. Smith.—I object to it as immaterial and irrelevant.

Commissioner Beardsley.—How is it material, Mr. Kelly?

Mr. Kelly.—This purports to be a copy of the report of the Long Island Railroad Company, and states at the top (reading): "We have thought best to distribute copies of the report of the Long Island Railroad Company for the year ending June 30, 1893. With these at hand, seekers after truth concerning the actual state of affairs pertaining to Long Island transportation will feel certain of not being misled. An examination of Poor's Manual will convince the most skeptical that our prospectus covering the one-rail or bicycle system does not in any way exaggerate the importance thereof for section as unique as the Long Island field." Signed, the "Kings, Queens and Suffolk

Company." But the particular point is this (reading): "Note. Under these instructions a vast portion of all expenses are charged against passenger earnings, because the mileage of passenger trains, as shown later under the head of 'traffic and mileage statistics,' is 2,659,232, as against freight mileage of 412,807. It will thus be seen why, under the same heading the profit on passengers is kept down to \$640,485.26, and the profit on freight kept up to \$825,961.27. It is universally conceded that the bicycle railroad will take all the passengers, all the mail, all the express, and three-fourths of all the freight. We leave it for the reader to determine how good a showing the Long Island Railroad Company can make under the head of 'Traffic and Mileage Statistics,' when the bicycle system is in operation."

It is the understanding of the Board that section 59 was enacted to prevent an over-supply of railroads. It was enacted because the Legislature believed that a sufficient railroad service would be of more substantial benefit to the public than a service in excess of the actual demand. In connection with such an application as this, when there is a collision between the applicant's proposition and the interests of an existing company, it is invariably urged on behalf of the applicant that existing rates of fare are unreasonable, and that the applicant will give better and cheaper service, if permitted. Neither branch of this proposition can be adopted in this case by the Board. The Legislature has full power to regulate fares of existing railways. It does so under laws which are not unduly favorable to the companies. If the rates charged upon Long Island are unreasonable they can be reduced, but the Board can not and will not assume that the law-making power of the State has overlooked this part of its domain or has neglected its duties with reference to it. In the absence of satisfactory evidence to the contrary, it must be presumed that the rates now permitted are reasonable. Even if they are not, a legislative act making them so, would be far wiser than the creation of a superfluous company in the hope that its competition would make them so. It is true that on behalf of the applicant assurances have been given that the cost of transportation will be materially diminished by the construction of applicant's road. Such promises can have no binding quality. The applicant's road, if constructed, would be subject to law precisely as existing roads now are. A new company must charge whatever the service it renders may be worth. A company charging less would become bankrupt, and bankrupt companies are not desirable. Mani-

festly, therefore, the applicant is promising to bring about a result which can be brought about better by other methods and agencies, or it is promising to do that which business principles declare to be impracticable. In this connection there is some degree of assertion that the territory which the applicant desires to serve is, at present, in the grasp of monopoly. If such a statement as this calls for comment, it need only be said that railroad corporations organized and doing business under the laws of this State are not monopolies. They are as far from the condition or estate of a monopoly as freedom of construction in the past and thorough going legal supervision at present can make them. They are so far from being monopolies that it is entirely safe to say that the railroad service of this State would in some particulars have been better than it is if the policy of the law had leaned more toward protecting the vested interests of railroads and their proprietors. At the present moment, there is no one form of business undertaken by railroads which may not be reviewed and questioned by public officials or which may not be made the subject of hostile legislation.

What has thus far been said has taken no special account of the peculiar, if not unique, character of the applicant's proposed road. The form of structure, if not eccentric, is at least novel. The proposed railroad, according to the evidence, is to commence at the terminus of an existing elevated railroad, at which point the structure will be 40 feet in the air. It is to run thence upon an elevated structure at a distance of 12 to 14 feet from the ground to Far Rockaway, an incorporated village. The car used is of the shape of a wedge sharpened at each end, running upon a single rail, moved by electricity, and the rate of speed is to be 40 miles an hour, and upon occasion to be as great as or even greater than 80 miles an hour. These cars are to be run every 10 minutes, manned by a motorman only. It is professed that grades present no difficulty and that curves of high degree do not prevent the operation of the road at a uniform rate of speed. According to the testimony of Engineer Boynton, the car is held upright and on the rail "by its own momentum." At the top of the car there is a guide-wheel, but it touches the structure only at rare intervals. The doors open on the side. The structure is part steel and part timber. The principle of operation in going around curves is that of a safety bicycle, and in general the structure and its methods of operation are said to resemble the operation of a bicycle. They are so novel that there is room to seriously consider the question whether the statutes under which the applicant incorporates were intended to provide for such a device. The Board is in doubt upon this

point. Those doubts do not rest solely upon the strange physical aspect of the structure, although that consideration can not be ignored. All railroads constructed under existing statutes owe various duties to the community and are charged with various obligations to other railroads. The statutes expressing these duties and obligations are obviously drawn with no reference to such a structure as is here proposed. Whether the road is a narrow-gauge road, as it describes itself, may well be questioned. It may be, perhaps, most accurately characterized as a special form of structure whose existence should be provided for by special enactments in order that its relation to its environment, to other railroads, and to the community may be made the subject of adequate legislation. The Board believes the authority of *The People's R. T. Co. v. Dash* (125 N. Y. 93) to be controlling here, and that, in the language of the Court of Appeals, the General Railroad Laws of the State "confer no right upon a company incorporated under them to build any such structure as the petitioners have here in mind." (125 N. Y., p. 100.)

To make it clear that, in this particular, no injustice has been done the applicant, the Board cites from the brief of applicant's counsel (point xxxii), the following description:

"The cars will be light in weight — not more than one-quarter to one-third of the weight of ordinary passenger coaches. There will be no ponderous locomotives to retard the speed of trains and wear out the structure by their own weight. The opportunity for ingress and egress from the cars will permit loading and reloading in a moment of time. The cars in each train will be only one or two, and the trains frequent, only a few minutes apart during the day. The speed will be 60 miles an hour, or greater, as circumstances may demand. The cars can be run as fast around the curves as on a straight line, which, alone, will effect a considerable saving of time. Here we shall have a fast, light, clean and convenient system, surpassing anything now in practical use."

The Board is of the opinion that public convenience and a necessity do not require the construction of the proposed road of the Kings, Queens and Suffolk Railroad Company, and, therefore, orders that its application be denied.

This case was appealed and the Board sustained. Appended herewith is the decision of the court:

DECISION OF THE APPELLATE DIVISION.

SUPREME COURT — APPELLATE DIVISION — SECOND DEPARTMENT.

IN THE MATTER OF THE APPLICATION OF THE KINGS, QUEENS AND SUFFOLK RAILROAD COMPANY FOR THE CERTIFICATE REQUIRED BY SECTION 59 OF THE RAILROAD LAW.

Application by the directors of the Kings, Queens and Suffolk Railroad Company, in pursuance of section 59 of chapter 676 of the Laws of 1892, for an order directing the State Board of Railroad Commissioners to issue the certificate to said company required by said section.

John Sabine Smith, for the applicants.

William J. Kelly, for the Long Island and New York and Rockaway Beach Railroad Companies.

Hatch, J. The application by the present railroad company for the certificate required by section 59 of the General Railroad Law has been denied by the State Board of Railroad Commissioners, and by this proceeding the railroad company ask for a reversal of such action and for an order of this court directing said Board to issue such certificate. The method of procedure is modern, as applied to the organization of railroad companies, but the rules which govern applications of this character, while comparatively new, are nevertheless fairly well settled, and the province of this court as a tribunal of review is established and practically defined by authority. The application for a certificate was denied by the Board of Railroad Commissioners upon two grounds. First, that the railroad company had no legal existence as a corporation; second, that public convenience and a necessity did not require the construction of the proposed road. The basis of the first determination consisted in the fact that 10 per cent. of the minimum amount of capital stock had not been paid in in cash to the directors named in the certificate, as required by subdivision 13 of section 2 of the Railroad Law. It was testified to upon the hearing before the Board, by the president of the railroad company, that no cash had been paid to the railroad company on account of any subscription for stock; that a check had been drawn by the company for \$3,750, that sum being 10 per cent. of the subscriptions upon the minimum amount of the capital stock, to the order of three directors of the company. But this check had never been indorsed by the persons to whose order it was drawn, no money had ever been paid thereon, and at the time of the hearing the president of the company had the check in his possession. To meet this dilemma the attorney for the company gave proof tending to show that the failure to collect the

money upon the check and pay the same to the treasurer of the company was the result of inadvertence; that in fact money to the amount of \$60,000 and upwards had been paid in by subscribers to the stock, all of which was subject to check, and he produced the cashier of the bank, upon which the check was drawn and where the money was deposited, who offered to certify the same as good, in the presence of the Board. The Board declined to direct the check to be certified and the case was submitted to the Board for their determination as respects this question upon these facts. The penalty which the law prescribes for a failure to pay at least 10 per cent. of the subscription to the capital stock in cash is to render the filing of any certificate void. (The Railroad Law, sec. 2, sub. 13.)

There is no qualification in favor of an inadvertent act and no saving clause for failure however occasioned. The requirement is imperative, the penalty absolute. The applicant in seeking to avoid the forces of the statute makes two answers: First, that the Board of Commissioners had nothing whatever to do with this question, as it was not within their province to determine; and, second, that the filing of the certificate constituted the company a *de facto* corporation and, except by action at the instance of the people, through the Attorney-General, their legality as a corporation could not be inquired into. The requirement of the law is that the petitioner must have regularly complied with the statute at the time it makes application to the Board for its certificate. The petition in this proceeding so stated. The Board is only authorized to act where there has been compliance with the law and the whole proceeding, until final authority is given to construct a railroad, is tentative only. The corporation does not acquire its full franchises until the final certificate is given, and until that time arrives it is not only within the province of the Board, but it is its duty to make inquiry into all prior proceedings, in order to determine that the thing which applies for its certificate is of a character which the law recognizes and to which it contemplated a certificate should be given. Such inquiry, upon the part of the Board in the present case, led them to the conclusion, and the only one permissible upon the evidence, that the petitioner which called itself a corporation was not such in fact and law. In fact it was nothing which the statute recognized and, in consequence, the Board had no authority to grant it a certificate. As applied to this proceeding the company was in no sense a *de facto* corporation. Corporations are many times upheld as *de facto* organizations where they have exercised acts of user and where, for the protection of property rights and vested interests, it is presumed to be a legal body. But such cases have no application where the corporation has exercised no functions,

and where by the proceeding itself it seeks to be invested with corporate life and function. It is at that time subject to inspection for the very purpose of determining that it exists as a legal body and for the further purpose of considering whether, its legality being established, it ought to be permitted to do the things which it was organized to do. But however it be treated the statute made its certificate void. All that it had done, therefore, was a nullity. In *Brooklyn S. T. Co. v. Brooklyn*, 78 N. Y. 524, the command of the statute to the company was that it be organized and construct at least one mile of railroad within three years thereafter, and for failure "all the powers, rights and franchises herein and hereby granted, shall be deemed forfeited and terminated." It failed of compliance, and the court held that for such failure it died as a corporation by the power of the statute. It was insisted there as here that it did not lose its charter and that its corporate functions did not cease, and could not cease, by the adverse action of any power, save through suit by the people, instituted by the Attorney-General for that purpose. The court condemned the claim and held that it was the legislative intent that the corporate power should cease, derived from the language used; that the statute created a forfeiture and not merely a cause for forfeiture. The language of the statute was less severe in that case than the present, for here it makes it void. This case has been cited with approval many times. (*Matter of Kings Co. El. R. R. Co.*, 105 N. Y. 97-119 et seq.)

The following cases decide the same principle: *Matter of B. W. & N. Railway Co.*, 72 N. Y. 245; *Farnham v. Benedict*, 107 N. Y. 159; 1 *Thomp. Corp.*, sec. 226.

It has always been the rule that a void judgment was neither protection nor authority for any act and that it might be attacked collaterally in any proceeding. (*Chambers v. Clearwater*, 1 Abb. Ct. App. 341; *Osterhour v. Hyland*, 27 Hun, 167.)

The same principle is applicable to this proceeding, and the Board of Commissioners were bound in the discharge of their duty not only to notice the invalidity, but to act upon it. So far as the denial of the certificate proceeded upon the ground that the public convenience would not be conserved and necessity did not require the construction of the road, we are of the opinion that the determination of the Board must be upheld. The evidence satisfactorily established that the proposed road for all practical purposes paralleled the roads of the remonstrants, would have a tendency to destroy and impair vested property rights without materially resulting benefits. This condition made a case within the spirit of the Railroad Law and justified the conclusion which the Commissioners reached. Heretofore, in disposing of a similar question, we used this language:

"The burden rests upon the petitioner to show affirmatively that the Commissioners erred in their determination, and the Commissioners should be credited with some technical knowledge which this court is not presumed to possess." (Matter of New Hamburg R. R. Co., 76 Hun, 76.)

This view has been adopted in other departments of the State: Matter of Amsterdam, J. & G. R. R. Co., 86 Hun, 578; Matter of Depew & S. W. R. R. Co., 92 Hun, 406.

We do not feel called upon to review all of the testimony which the Commissioners had before them. We are content now to say that within the rule of these authorities the conclusion is easily sustained. So far as the affidavits and petitions of various persons, resident in Brooklyn and elsewhere, which form so large a part of the record in this proceeding is concerned, and so far as the charge of maintaining a monopoly finds place, we think that the discussion and decision in the Amsterdam case (*supra*), as well as the reasons assigned by the Commissioners, furnishes a sufficient answer.

We are not able to see, from a consideration of the whole of the proceedings, that the determination is contrary to the clear weight of the testimony, and in consequence we are not authorized to interfere with the conclusion on this ground.

It follows that the application should be denied, with costs.

X.

IN THE MATTER OF THE APPLICATION OF THE WATKINS AND HAVANA RAILROAD COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

February 24, 1896.

On reading and filing the application of the Watkins and Havana Railroad Company for a certificate under section 59 of the Railroad Law, dated February 7, 1896, by John E. Mulford, president, and Collins L. Hathaway, secretary, the articles of association of said company and due proof of publication thereof, and due proof of the publication of notice of hearing before this Board, a map and profile showing the proposed route, and the affidavits of O. H. Budd and others in favor of the application, and after hearing John B. Stanchfield, counsel, for said application, no one appearing in opposition thereto, and it appearing that the conditions of section 59 of the Railroad Law have been complied with and that public convenience and a necessity require the construction of said railroad, it is

Ordered, That said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that the conditions of said section have been complied with and that public convenience and a necessity require the construction of said railroad as proposed in said articles of association and as shown upon said map.

XI.

IN THE MATTER OF THE APPLICATION OF THE EMPIRE CITY TRACTION COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

March 4, 1896.

The applicant has been incorporated to construct and operate a railroad entirely within the city and county of New York.

It appears that this corporation and one or more other corporations, not applying to this Board, have applied to the common council of the city for permission to construct a railroad. Their applications, it is understood, are before the Railroad Committee of the common council. If the common council grants the permission, then the right, privilege and franchise must be sold to the highest bidder by the comptroller of the city, under section 93 of the Railroad Law. This application would present no special difficulty and the Board would, probably, not feel called upon to take notice of proceedings pending before the local authorities except for the provision just referred to under which consent, if granted, must contain the condition that the right, franchise and privilege of using any street, etc., shall be sold at public auction. The Board, therefore, must determine whether it will entertain an application for a certificate under section 59, made by a company that has not complied with the provisions of section 93.

It is not necessary to declare that the two sections prescribed an order of procedure. It is, however, desirable, if not imperative that the Board should so discharge its duties under section 59, as to avoid confusion and embarrassment for the applicant and others at the same time so as to give full force and effect to the section.

Section 59 has been expounded by the courts. The decisions of the Supreme Court and the history of the statute leave no doubt as to the intent back of its enactment. It was enacted to prevent the construction of superfluous railroads. The statutes existing and applicable to railroads were not, so far as the Board is informed, repealed or modified by its passage, but it became neces-

sary after its passage for a railroad corporation to comply with the provisions of this section before it could exercise certain powers or begin construction. The section applied to the whole state, and as now amended, it applies to street railroads. The language contained in it bearing especially upon this application reads as follows: "No railroad corporation hereafter formed under the laws of this State shall exercise the powers conferred by law upon such corporations or begin the construction of its road until the directors shall cause a copy of the articles of association to be published in one or more newspapers in each county in which the road proposed to be located at least once a week for three successive weeks and shall file satisfactory proof thereof with the Board of Railroad Commissioners, nor until the Board of Railroad Commissioners, shall certify that the foregoing conditions have been complied with, and also that public convenience and necessity require the construction of said railroad as proposed in said articles of association."

Section 93, of the Railroad Law, is an older enactment than section 59. Its application is limited to the city of New York. Under its provisions, the consent of the local authorities must contain the condition already referred to, that the right, franchise and privilege of using any street, etc., shall be sold at public auction. The bidder must be "a duly incorporated railroad corporation of this State, organized to construct, maintain and operate a street railroad in the city for which such consent may be given."

It is clear from a consideration of the provisions of these two sections that the granting to the applicant of a certificate under section 59, might never be followed by construction. The applicant, after receiving the certificate, must still comply with the provisions of section 93. Such a situation may not be positively forbidden by the statutes, but it seems to the Board, not to be in harmony with the intent of section 59. The Legislature did not intend that the Board should knowingly issue an ineffectual certificate. The argument submitted for the applicant supports this conclusion, for the applicant's counsel, recognizing that such a certificate might well be a nullity, argues that the Board may and should grant a multitude of certificates, leaving the question of construction under all or any of them to be determined thereafter. The Board believes the discretion vested in it to be of a different character. If the sections prescribed an order of procedure, the Board would act, at the time prescribed for it to act. There is, however, no such prescribed order, and the Board, if it can, must so deal with the application as to lessen whatever difficulties or possibility of confusion exist under the provisions of the two sections. If the Board defers consideration of the applica-

tion until the applicant can show compliance with the provisions of section 93, no private person is injured, and the discretion vested in the Board by the State will not be exercised fruitlessly. The local authorities will be in no way prevented from giving full consideration to all persons seeking to deal with them under the law, and all such persons will be equally qualified to comply with the conditions of section 93. In this connection some attention should possibly be given to the argument urged on behalf of the applicant that the bidder is not "a duly incorporated railroad corporation," under the terms of section 93, unless it possesses the Board's certificate. The Board can not adopt this argument. The language quoted was in section 93, before section 59 came into existence, and the Board will not declare that section 59 was intended to enlarge the qualifications of a bidder as described in that phrase. Moreover, the entire phrase affords little or no basis for such an argument. Its language is: "The bidder to whom such right, franchise and privilege may be sold, must be a duly incorporated railroad corporation of this State, organized to construct, maintain and operate a street railroad in the city for which such consent may be given." It is the judgment of the Board that the applicant is such a corporation.

For the reasons stated, the certificate is refused, but without prejudice to a renewal of the application.

This case was appealed and the Board sustained. Appended herewith is the decision of the court:

DECISION OF THE APPELLATE DIVISION.

SUPREME COURT—APPELLATE DIVISION—FIRST DEPARTMENT.

Chas. H. Van Brunt, P. J., Pardon C. Williams, Edward Paterson, Morgan J. O'Brien, George L. Ingraham, JJ.

April, 1896.

IN THE MATTER OF THE APPLICATION OF THE EMPIRE CITY TRACTION COMPANY.

Application for an order directing the Railroad Commissioners to issue a certificate to the Empire City Traction Company.

Mr. W. H. Page, Jr., for applicant.

Mr. H. A. Robinson and Mr. R. J. Moses, opposed.

Per Curiam:

On the 30th day of December, 1895, the Empire City Traction Company filed its articles of association, the purpose of said association being stated in said articles to be the building, maintaining and operating of a street railroad, beginning at the Hudson river on West One Hundred and Forty-fifth street; running

thence easterly through and along said street to the Harlem river; and also beginning at the Hudson river on West Ninety-sixth street; running thence easterly through and along said street to its intersection with Columbus avenue; running thence northerly through and along said Columbus avenue to its intersection with West Ninety-seventh street; running thence easterly through and along said West Ninety-seventh street to the easterly side of Central Park west; thence easterly through and along the transverse road through Central Park at Ninety-seventh street to Fifth avenue; thence easterly through and along East Ninety-seventh street to its intersection with Madison avenue; thence southerly through and along Madison avenue to its intersection with East Ninety-sixth street; thence easterly through and along East Ninety-sixth street to its intersection with Third avenue; thence northerly through and along said Third avenue to its intersection with East Ninety-ninth street; thence easterly through and along said East Ninety-ninth street to the East river; and said company having claimed to have complied with the conditions of section 59 of the Railroad Law, and that the public convenience and necessity required the construction of the railroad proposed in the articles of association, made application to the Board of Railroad Commissioners under such section for a certificate to that effect. This certificate was refused, whereupon in pursuance of the provisions of said section 59, this application was made to this court.

Section 59 of the Railroad Law, which was adopted in 1892, as amended by chapter 676 of the Laws of 1892, is as follows:

“ § 59. Requisites to exercise of powers of future railroad corporations.—No railroad corporation hereafter formed under the laws of this State shall exercise the powers conferred by law upon such corporation or begin the construction of its road until the directors shall cause a copy of the articles of association to be published in one or more newspapers in each county in which the road was proposed to be located, at least once a week for three successive weeks, and shall file satisfactory proof thereof with the Board of Railroad Commissioners; nor until the Board of Railroad Commissioners shall certify that the foregoing conditions have been complied with, and also that public convenience and necessity require the construction of said railroad as proposed in said articles of association. The foregoing certificate shall be applied for within six months after the completion of the three weeks' publication hereinbefore provided for. If certificate is refused, no further proceedings shall be had before the said Board, but the application may be renewed after one year from the date of such refusal. Prior to granting or refusing said certificate, the Board shall have a right to permit errors, omissions or defects to be supplied and corrected. After a refusal

to grant such certificate, the Board shall certify a copy of all maps on file in its office, and of the findings of the Board, when so requested by the directors aforesaid. Such directors may thereupon present the same to a General Term of the Supreme Court of the department within which said road is proposed in whole or in part to be constructed, and said General Term shall have power, in its discretion, to order said Board, for reasons stated, to issue said certificate and it shall be issued accordingly. Such certificate shall be filed in the office of the Secretary of State, and a copy thereof certified to be a copy by the Secretary of State, or his deputy, shall be evidence of the fact therein stated. Nothing in this section shall prevent any such railroad corporation from causing such examinations and surveys for its proposed railroad to be made, as may be necessary to the selection of the most advantageous route; and for such purpose by its officers or agents and servants, to enter upon the lands or water of any person, but subject to the responsibility for all damages which shall be done thereto. This section shall not apply to street railroads."

By chapter 545 of the Laws of 1895, section 59 of the Railroad Law above referred to, was amended by striking out the words: "This section shall not apply to street railroads," leaving the section otherwise unchanged. And it is in pursuance of this amendment that it becomes necessary for street railroads to make the application to the Railroad Commissioners.

By section 93 of the Railroad Law, it is provided that the consent of the local authorities in cities containing 125,000 inhabitants or more, must contain the condition that the right, franchise and privilege shall be sold at public auction to the bidder who will agree to give the city the largest percentage per annum of the gross receipts of such corporation, etc. This provision applying to the city of New York, requires in addition to the consent of the local authorities, that the corporation desiring to build a road within said city shall be the highest bidder at such an auction sale.

It is claimed upon the part of the applicant that in view of the restrictions contained in section 59 of the Railroad Law, it can not become a bidder at an auction sale without having a certificate from the Railroad Commissioners. Upon an examination of the law in question, we do not see that any such construction can be put upon the law. It is admitted that such a construction would require the Commissioners to issue a certificate to every applicant who might file certificates of incorporation for building a railroad, to the building of which the local authorities might give their consent. It is manifest that such was not the intention of the law. It was the intention of the law beyond doubt to prevent the paralleling of routes and the filing of certificates of incorpora-

tion by divers associations for the same routes and the holding of franchises by the filing of such certificates, thereby preventing others willing to do so from proceeding with the improvement without making terms with the corporation first filing its certificate. Such being the evident intention of the act at the time of its adoption when it excluded street railroads from its operation, the whole construction and intent of the act can not be changed by the mere introduction of a new element upon which it is to operate. It seems to us clear that it would be a violation of the duties imposed upon the Railroad Commissioners for them to issue divers certificates to companies organized for the purpose of building upon the same route. This would be to frustrate one of the objects of the law, and such a construction should not be placed upon it because of the bringing in of another clause by subsequent legislation, unless the intent to change the original construction of the act is manifest. No such intent can be gathered from the legislation upon this subject. Indeed it seems to have been the intention to prevent abuses of this kind in respect to street railroads that had obtained in reference to routes which were not remedied in the original statute; and the mere fact that in a particular locality it would seem to work inconvenience is a matter for the Legislature to consider, and not for the court to legislate upon.

We agree with the Railroad Commissioners in the conclusion at which they have arrived that there is no incapacity upon the part of the applicant to bid at the sale of the desired privilege. If there is a risk that in consequence of the peculiarities engrafted upon the incorporation of the successful bidder, or that for other reasons consent may be refused by the Railroad Commissioners, that is an infirmity in the law and should be redressed by future legislation as above stated; but such difficulties can not be obviated by judicial construction.

We are of the opinion therefore that the application should be denied.

XII.

IN THE MATTER OF THE APPLICATION OF THE FULTON CHAIN RAILROAD COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

March 9, 1896.

On reading and filing the application of the Fulton Chain Railroad Company for a certificate under section 59 of the Railroad Law, dated February 15, 1896, by the directors of the company,

the articles of association of said company and due proof of publication thereof, and due proof of the publication of notice of hearing before this Board, a map and profile showing the proposed route, the affidavits of Arthur H. Elms and others in favor of the application, and after hearing Hadley Jones and Charles F. Snyder, counsel, for said application, no one appearing in opposition thereto, and it appearing that the conditions of section 59 of the Railroad Law have been complied with and that public convenience and a necessity require the construction of said railroad, it is

Ordered, That said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that the conditions of said section have been complied with and that public convenience and a necessity require the construction of said railroad as proposed in said articles of association and as shown upon said map.

XIII.

IN THE MATTER OF THE APPLICATION OF THE ALBANY, HELDERBERG AND SCHOHARIE ELECTRIC RAILWAY COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

March 16, 1896.

On reading and filing the petition of the Albany, Helderberg and Schoharie Electric Railway Company for a certificate under section 59 of the Railroad Law, dated December 13, 1895, by John W. Van Valkenburgh, president, an amended petition, dated January 4, 1896, by John W. Van Valkenburgh, president, the articles of association of said company and due proof of publication thereof, and due proof of publication of notice of hearing before this Board, a map showing the proposed route, and an amended map of a portion of the proposed route filed February 3, 1896, and after hearing evidence and arguments for and against the application on January 6, February 3, February 24, and March 9, 1896, Hobart Krum and L. C. Warner, counsel, appearing for said application, L. E. Carr and I. H. Maynard appearing in opposition thereto, James F. Tracey appearing in opposition to a portion of the route as shown on the first map filed, and it appearing that the conditions of section 59 of the Railroad Law have been complied with and that public convenience and a necessity require the construction of said railroad, it is

Ordered, That said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certi-

fies, in accordance with section 59 of the Railroad Law, that the conditions of said section have been complied with and that public convenience and a necessity require the construction of said railroad as proposed in said articles of association and as shown upon the amended map of the portion of the route from Albany to New Salem and the map of the portion of the route from New Salem to Schoharie.

XIV.

IN THE MATTER OF THE APPLICATION OF THE TARRYTOWN ELECTRIC RAILWAY COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

March 31, 1896.

This application contemplates the construction of an electric street railroad from the New York Central station at Tarrytown to Elmsford, there to connect with an existing railroad running to White Plains, the county seat of Westchester county.

On the evidence, and after examination of the locality, it seems desirable to construct a railroad between the two points named as the termini of applicant's proposed railroad, but it is the judgment of the Board, after such examination and after hearing the witnesses who have come before it, that the particular route chosen by the applicant in the village of Tarrytown is not a proper or available route. It does not serve public convenience as other routes would which applicant might have chosen. Furthermore, it appears that the great body of the inhabitants of Tarrytown, and the local authorities, strongly prefer a different route, and the route which they prefer seems to the Board, after examination, to be better adapted to the purpose. This decided preference of the great mass of the population, through whose streets the road is to run, seems to the Board most significant as bearing upon the question whether the proposed road will serve public convenience. It further appears that the New York, Elmsford and White Plains Railroad Company has applied to the local authorities for permission to extend its road from Elmsford to the village of Tarrytown and upon the route desired by the local authorities, and that the village trustees of Tarrytown have granted permission for such extension.

In view of these facts, and for the reasons stated, the certificate is refused.

XV.

IN THE MATTER OF THE APPLICATION OF THE IRONDEQUOIT AND LAKE SHORE ELECTRIC RAILROAD COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

April 21, 1896.

On reading and filing the application of the Irondequoit and Lake Shore Electric Railroad Company for a certificate under section 59 of the Railroad Law, dated March 12, 1896, by Almeron J. Johnson, vice-president, the articles of association of said company, and due proof of the publication of notice of hearing before this Board, a map showing the proposed route, and the affidavits of Almeron J. Johnson, Dayton T. Lawrence and others in favor of the application, and after hearing W. H. and J. P. Bowman, counsel, for said application, no one appearing in opposition thereto, and it appearing that the conditions of section 59 of the Railroad Law have been complied with and that public convenience and a necessity require the construction of said railroad, it is

Ordered, That said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that the conditions of said section have been complied with and that public convenience and a necessity require the construction of said railroad as proposed in said articles of association and as shown upon said map.

XVI.

IN THE MATTER OF THE PECKSPORT CONNECTING RAILWAY COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

May 6, 1896.

On reading and filing the application of the Pecksport Connecting Railway Company for a certificate under section 59 of the Railroad Law, dated April 28, 1896, by William F. Dunning, one of the incorporators and attorney for the company, the articles of association of said company and due proof of the publication thereof as required by said section, and due proof of the publication of notice of hearing before this Board, a map and profile of the proposed route, and after hearing the testimony of J. E. Childs, and after hearing W. F. Dunning, attorney, for said application, no one appearing in opposition thereto, and it appearing that the conditions of section 59 of the Railroad Law have been complied with and that public convenience and a necessity require the construction of said railroad, it is

Ordered, That said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that the conditions of said section have been complied with and that public convenience and a necessity require the construction of said railroad as proposed in said articles of association and as shown upon said map.

XVII.

IN THE MATTER OF THE APPLICATION OF THE CHITTENANGO AND WHITE SULPHUR SPRINGS RAILWAY COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

May 11, 1896.

On reading and filing the application of the Chittenango and White Sulphur Springs Railway Company for a certificate under section 59 of the Railroad Law, dated April 16, 1896, by Walter J. Roberts, second vice-president, and J. Frederick Sprain, secretary, the articles of association of said company and due proof of the publication thereof, due proof of the publication of notice of hearing before this Board, the affidavit of Walter J. Roberts in favor of said application, and after hearing William Sutphen, counsel, for said application, no one appearing in opposition thereto, and it appearing that the conditions of section 59 of the Railroad Law have been complied with and that public convenience and a necessity require the construction of said railroad, it is

Ordered, That said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that the conditions of said section have been complied with and that public convenience and a necessity require the construction of said railroad as proposed in said articles of association.

XVIII.

IN THE MATTER OF THE APPLICATION OF THE BALLSTON TERMINAL RAILROAD COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

May 12, 1896.

On reading and filing the application of the Ballston Terminal Railroad Company for a certificate under section 59 of the Rail-

Ordered, That said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that the conditions of said section have been complied with and that public convenience and a necessity require the construction of said railroad as proposed in said articles of association and as shown upon said map.

XI.

IN THE MATTER OF THE APPLICATION OF THE EMPIRE CITY TRACTION COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

March 4, 1896.

The applicant has been incorporated to construct and operate a railroad entirely within the city and county of New York.

It appears that this corporation and one or more other corporations, not applying to this Board, have applied to the common council of the city for permission to construct a railroad. Their applications, it is understood, are before the Railroad Committee of the common council. If the common council grants the permission, then the right, privilege and franchise must be sold to the highest bidder by the comptroller of the city, under section 93 of the Railroad Law. This application would present no special difficulty and the Board would, probably, not feel called upon to take notice of proceedings pending before the local authorities except for the provision just referred to under which consent, if granted, must contain the condition that the right, franchise and privilege of using any street, etc., shall be sold at public auction. The Board, therefore, must determine whether it will entertain an application for a certificate under section 59, made by a company that has not complied with the provisions of section 93.

It is not necessary to declare that the two sections prescribed an order of procedure. It is, however, desirable, if not imperative that the Board should so discharge its duties under section 59, as to avoid confusion and embarrassment for the applicant and others at the same time so as to give full force and effect to the section.

Section 59 has been expounded by the courts. The decisions of the Supreme Court and the history of the statute leave no doubt as to the intent back of its enactment. It was enacted to prevent the construction of superfluous railroads. The statutes existing and applicable to railroads were not, so far as the Board is informed, repealed or modified by its passage, but it became neces-

sary after its passage for a railroad corporation to comply with the provisions of this section before it could exercise certain powers or begin construction. The section applied to the whole state, and as now amended, it applies to street railroads. The language contained in it bearing especially upon this application reads as follows: "No railroad corporation hereafter formed under the laws of this State shall exercise the powers conferred by law upon such corporations or begin the construction of its road until the directors shall cause a copy of the articles of association to be published in one or more newspapers in each county in which the road proposed to be located at least once a week for three successive weeks and shall file satisfactory proof thereof with the Board of Railroad Commissioners, nor until the Board of Railroad Commissioners, shall certify that the foregoing conditions have been complied with, and also that public convenience and necessity require the construction of said railroad as proposed in said articles of association."

Section 93, of the Railroad Law, is an older enactment than section 59. Its application is limited to the city of New York. Under its provisions, the consent of the local authorities must contain the condition already referred to, that the right, franchise and privilege of using any street, etc., shall be sold at public auction. The bidder must be "a duly incorporated railroad corporation of this State, organized to construct, maintain and operate a street railroad in the city for which such consent may be given."

It is clear from a consideration of the provisions of these two sections that the granting to the applicant of a certificate under section 59, might never be followed by construction. The applicant, after receiving the certificate, must still comply with the provisions of section 93. Such a situation may not be positively forbidden by the statutes, but it seems to the Board, not to be in harmony with the intent of section 59. The Legislature did not intend that the Board should knowingly issue an ineffectual certificate. The argument submitted for the applicant supports this conclusion, for the applicant's counsel, recognizing that such a certificate might well be a nullity, argues that the Board may and should grant a multitude of certificates, leaving the question of construction under all or any of them to be determined thereafter. The Board believes the discretion vested in it to be of a different character. If the sections prescribed an order of procedure, the Board would act, at the time prescribed for it to act. There is, however, no such prescribed order, and the Board, if it can, must so deal with the application as to lessen whatever difficulties or possibility of confusion exist under the provisions of the two sections. If the Board defers consideration of the applica-

with and that public convenience and a necessity require the construction of said railroad, it is

Ordered, That said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that the conditions of said section have been complied with and that public convenience and a necessity require the construction of said railroad as proposed in said articles of association and as shown upon said map.

XXII.

IN THE MATTER OF THE APPLICATION OF THE PATCHOGUE AND PORT JEFFERSON TRACTION COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

June 2, 1896.

On reading and filing the application of the Patchogue and Port Jefferson Traction Company for a certificate under section 59 of the Railroad Law, dated May 23, 1896, by Edwin Bailey president, the articles of association of said company and due proof of the publication thereof, due proof of the publication of notice of hearing before this Board, a map showing the proposed route, the affidavits of Jesse C. Mills and others and after hearing evidence, Robert S. Belletreau, counsel, appearing for said application, George L. Robinson, counsel, appearing in opposition to the building of said railroad on Ocean avenue in the village of Patchogue, and it appearing that the conditions of section 59 of the Railroad Law have been complied with and that public convenience and a necessity require the construction of said railroad, although this Board does not now pass upon the question of the crossings at grade of the Long Island Railroad, it is

Ordered, That said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that the conditions of said section have been complied with and that public convenience and a necessity require the construction of said railroad as proposed in said articles of association.

XXIII.

IN THE MATTER OF THE APPLICATION OF THE GREAT NECK AND PORT WASHINGTON RAILROAD COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

June 2, 1896.

On reading and filing the application of the Great Neck and Port Washington Railroad Company for a certificate under section 59 of the Railroad Law, dated May 23, 1896, by D. Voorhees, secretary, the articles of association of said company and due proof of the publication thereof, due proof of the publication of notice of hearing before this Board, a map showing the proposed route, and after hearing evidence in favor thereof, Alfred A. Gardner, counsel, appearing for said application, and no one in opposition thereto, and it appearing that the conditions of section 59 of the Railroad Law have been complied with and that public convenience and a necessity require the construction of said railroad, it is

Ordered, That said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that the conditions of said section have been complied with and that public convenience and a necessity require the construction of said railroad as proposed in said articles of association, and as shown upon said map.

XXIV.

IN THE MATTER OF THE APPLICATION OF THE UPPER HUDSON RAILROAD COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

June 29, 1896.

On reading and filing the application of the Upper Hudson Railroad Company for a certificate under section 59 of the Railroad Law, dated the 26th of May, 1896, by A. Pagenstecher, vice-president, and A. Pagenstecher, Jr., secretary, the articles of association of said company and due proof of the publication thereof, due proof of the publication of notice of hearing before this Board, a map showing two proposed routes, one marked "Line A," and the other marked "Line B," the company selecting the route marked "Line A," and after hearing evidence in favor thereof, John B. Gleason, counsel, appearing for said application and no one in opposition thereto, and it appearing that the conditions of section 59 of the Railroad Law have been complied with and that public

convenience and a necessity require the construction of said railroad, it is

Ordered, That said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that the conditions of said section have been complied with, and that public convenience and a necessity require the construction of said railroad as proposed in said articles of association and as shown by the line marked "Line A" upon said map.

XXV.

IN THE MATTER OF THE APPLICATION OF THE SYRACUSE RAPID TRANSIT RAILWAY COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

June 29, 1896.

This is an application for a certificate under section 59 of the Railroad Law to the effect that the applicant, the Syracuse Rapid Transit Railway Company, has complied with the conditions therein imposed and that public convenience and a necessity require the construction of its railroad as described in its articles of association. The articles of association, among other things, state that it is to be a street surface railroad in the city of Syracuse about 57.69 miles in length, and describe its routes, which appear to cover some 54 miles of streets now occupied by the lines of existing companies, viz.: The Syracuse Consolidated Street Railway and the Syracuse Street Railroad, and some four miles of streets not now occupied by any railroad.

The purpose of the corporation, as alleged in the affidavits filed on the application for such certificate (although the fact does not appear in its articles of association), appears to be the purchase of the existing street railway lines in Syracuse above named, and their operation in a reorganized system to be known as the Syracuse Rapid Transit Railway, as well as the construction of four miles of new railroad as stated above. It appears that the Syracuse Consolidated Street Railway has been sold under mortgage foreclosure and was purchased at such sale by one George Sherman, and that the Syracuse Street Railroad Company is now in the hands of a receiver and the mortgage thereon is in process of foreclosure, the sale thereunder not yet having occurred.

The applicant herein alleges in affidavits filed in its behalf that it desires to and is about to become the purchaser of the existing systems. It further appears that mortgage bonds to the amount

of \$750,000, which it is admitted are a first lien on the property of what was formerly the People's Railroad Company of Syracuse, now the Syracuse Street Railroad Company, are now outstanding, and the trustees of that mortgage appear by Joseph R. Swan, Esq., one of the trustees, and object to the issuing of a certificate to the applicant herein so far as relates to any portion of the route now occupied by the lines of what was formerly the People's Railroad Company, which, as above stated, are covered by that mortgage.

The Board doubts whether section 59 applies to a corporation organized for the purposes of the applicant. The company in question is simply a reorganization of existing companies, and it is not organized for the purpose of constructing a new railroad, and the statute (section 3 of the Stock Corporation Law and section 81 of the Railroad Law) provides for such reorganization. Moreover, it does not appear that the applicant has become the purchaser, in fact, of either of the above-named corporations or their property rights and franchises, but the affidavits filed in its behalf allege that it intends to become the purchaser of such rights and franchises. It does, however, file the consent of Mr. Sherman and that of the stockholders of the Syracuse Street Railroad Company; that such certificate be granted.

The primary object of section 59 was the prevention of the construction of unnecessary railroads (see opinion by Mr. Justice Herrick, in matter of Amsterdam, Johnstown and Gloversville R. R. Co., 86 Hun, 578), and the impropriety of granting a certificate to the applicant that public convenience and necessity require the construction of its railroad on 57 miles of streets, 53 of which are now occupied by the tracks of street railroads in actual operation and of which it may or may not become the owner, is obvious.

The Board believes that it can not properly grant a certificate to a company organized for the purposes set forth and upon such facts as are disclosed herein.

The application is, therefore, refused.

XXVI.

IN THE MATTER OF THE APPLICATION OF THE KINGSTON AND LAKE KATRINE RAILWAY COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

June 30, 1896.

On reading and filing the application of the Kingston and Lake Katrine Railway Company for a certificate under section 59 of the Railroad Law, dated May 5, 1896, by William J. Turck,

Jr., president, the articles of association of said company and due proof of the publication thereof, due proof of the publication of notice of hearing before this Board, a map showing the proposed route, the affidavits of Herbert M. Martin and others, and after hearing evidence for and against said application, and after hearing Frank White and J. G. Van Etten for said application, and F. L. Westbrook, for the New York Central and Hudson River Railroad Company, lessee of the West Shore Railroad, in opposition thereto, and it appearing that the conditions of section 59 of the Railroad Law have been complied with and that public convenience and a necessity require the construction of said railroad, it is

Ordered, That said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that the conditions of said section have been complied with and that public convenience and a necessity require the construction of said railroad as proposed in said articles of association and as shown upon said map.

XXVII.

IN THE MATTER OF THE APPLICATION OF THE NEWTOWN CREEK TERMINAL COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

August 26, 1896.

On reading and filing the application of the Newtown Creek Terminal Company for a certificate under section 59 of the Railroad Law, by George W. Kenyon and others, the board of directors of said company, filed July 7, 1896, the articles of association of said company and due proof of the publication thereof, due proof of the publication of notice of hearing before this Board, a map showing the proposed route of said railroad company, the affidavits of William Brookfield and others in favor of said application, and after hearing Newell Martin, counsel, for said application, no one appearing in opposition thereto, and it appearing that the conditions of section 59 of the Railroad Law have been complied with and that public convenience and a necessity require the construction of said railroad, it is

Ordered, That said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that the

conditions of said section have been complied with and that public convenience and a necessity require the construction of said railroad as proposed in said articles of association and as shown upon said map.

XXVIII.

IN THE MATTER OF THE APPLICATION OF THE LEHIGH AND LAKE ERIE RAILROAD COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

August 26, 1896.

The points of resemblance between this application and the application heretofore made on behalf of the Depew and Southwestern Railroad Company, are numerous and clear. The application of the Depew and Southwestern Railroad Company was denied and a certificate refused, and an appeal from such decision is now pending and undetermined in the Court of Appeals. In the judgment of the Board it would be improper to grant, during the pendency of that appeal, a second application so nearly identical with the one now on review in the courts.

The applicant's case has been fully presented and by no means shows that public necessity requires the construction of its road, and it is clear from the evidence that important existing interests would be injuriously affected by the construction of applicant's road.

The motion made on behalf of the Terminal Railway Company of Buffalo and the Erie Railroad Company is, therefore, granted and a certificate refused.

XXIX.

IN THE MATTER OF THE APPLICATION OF THE PORT CHESTER STREET RAILWAY COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

August 28, 1896.

On reading and filing the application of the Port Chester Street Railway Company for a certificate under section 59 of the Railroad Law, dated August 4, 1896, by Charles H. Cummings and others, incorporators, the articles of association of said company and due proof of the publication thereof, due proof of the publi-

cation of notice of hearing before this Board, a map showing the proposed route of said railroad company, and after hearing the testimony of H. M. Henderson and others, and after hearing John S. Wise, counsel, for said application, no one appearing in opposition thereto, and it appearing that the conditions of section 59 of the Railroad Law have been complied with and that public convenience and a necessity require the construction of said railroad, it is

Ordered, That said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that the conditions of said section have been complied with and that public convenience and a necessity require the construction of said railroad as proposed in said articles of association and as shown upon said map.

XXX.

IN THE MATTER OF THE APPLICATION OF THE DEPEW AND SOUTHWESTERN RAILROAD COMPANY AND THE TERMINAL RAILWAY OF BUFFALO FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

The application of the Depew and Southwestern Railroad Company for a certificate under section 59 of the Railroad Law was denied, and a similar application on the part of the Terminal Railway of Buffalo, was granted, by the Board of Railroad Commissioners, August 6, 1895. An appeal was taken by the Depew and Southwestern Company to the Supreme Court, General Term, Fifth Department, and a decision sustaining the Board was handed down on December 28, 1895, all proceedings relating to which were fully published in the thirteenth annual report of this Board. Subsequently the action of the Board in granting a certificate to the Terminal Company, and refusing a certificate to the Depew and Southwestern Company, was reviewed by the Appellate Division of the Supreme Court, Third Department, and the Board sustained. Appended herewith is the opinion of the court, together with a dissenting opinion by Mr. Justice Parker.

SUPREME COURT—APPELLATE DIVISION—THIRD DEPARTMENT.

Parker, P. J., Landon, Herrick, Merwin and Putnam, associate justices.

ALBANY, *January*, 1896.

THE PEOPLE EX REL. THE DEPEW AND SOUTHWESTERN RAILROAD COMPANY AGAINST THE BOARD OF RAILROAD COMMISSIONERS OF THE STATE OF NEW YORK AND SAMUEL A. BEARDSLEY, MICHAEL RICKARD AND ALFRED C. CHAPIN, AS RAILROAD COMMISSIONERS OF THE STATE OF NEW YORK, AND THE TERMINAL RAILWAY OF BUFFALO.

Bissell, Sicard, Bissell & Carey (W. S. Bissell of counsel), for relator.

John D. McMahon, for defendants.

McMillan, Gluck, Pooley & Depew (James Fraser Gluck of counsel), for the Terminal Railway of Buffalo.

Herrick, J.

This is a proceeding by *certiorari* to review the action of the Board of Railroad Commissioners in refusing to issue to the relator a certificate of convenience and necessity, under section 59 of the Railroad Law, and in issuing such a certificate to the Terminal Railway of Buffalo.

The relator, the Depew and Southwestern Railroad Company, filed its articles of association on the 15th of June, 1895. The Terminal Railway of Buffalo filed its articles of association June 17, 1895. The articles of association of the relator were acknowledged June 14, 1895, and those of the defendant, the Terminal Railway of Buffalo, were acknowledged June 12, 1895. Both companies made application for the certificate required by section 59 of the Railroad Law by filing applications therefor with the Board of Railroad Commissioners, July 1, 1895. Each of said companies proposed to run a railroad between the villages of Depew and Blasdell in the county of Erie; the routes are practically the same, and each 10 miles in length.

It appears that a number of trunk lines of railroads come into close proximity with each other at the village of Depew, and certain other railroads come into close proximity with each other at the village of Blasdell, and that by the construction of a line of railroad between Depew and Blasdell, the interchange of traffic between the group of roads coming into proximity to each other at said villages, could be made outside of the city of Buffalo so as to save a distance of some six miles.

The termini of both roads are the same; the amount of capital stock of each is the same; each is to be operated by steam power, and each is what is called standard gauge; also that each com-

pany has complied with the conditions and requirements of section 59 of the Railroad Law.

The relator, upon filing its application for a certificate, asked to be heard upon its application in advance of all others applying for a certificate for any road between the points in question, and also filed notice of a desire to be heard in opposition to the granting of a certificate to any other company.

The Board of Railroad Commissioners denied the first request and resolved to hear both applications on the same day and at the same time.

After such hearing, the Board of Railroad Commissioners issued a certificate of public convenience and necessity to the defendant, the Terminal Railway of Buffalo, and refused to issue such a certificate to the relator. The board of directors of the relator thereupon took the proceedings provided by section 59 of the Railroad Law, for a review of the action of the Railroad Commissioners in refusing to grant such certificate, which proceeding for a review was pending in the General Term of the Supreme Court for the Fourth Department, at the time the writ of *certiorari* herein was granted.

By this proceeding it is sought to review the action of the Board of Railroad Commissioners, and to reverse and vacate their action in refusing to issue a certificate to the relator, and issuing one to the defendant, the Terminal Railway Company of Buffalo, or at least to reverse their action in issuing such certificate to the latter company.

While the applications were heard together, and although the decision in one might perhaps have its weight in influencing the decision of the other, as appears to have been the fact in this case, yet they were separate and distinct proceedings.

The relator's grievance is, that no certificate of convenience and necessity was granted to it; it can have no cause of grievance because of the granting of a certificate to the defendant, the Terminal Railway Company, except as the granting of such certificate interfered with its own application, upon the ground that public necessity and convenience did not require the construction of two lines of railway between the points in question.

It has been argued before us that the Railroad Commissioners had no jurisdiction or authority to adjudicate as between the two companies; that its only function is to determine whether public convenience and necessity require the construction of a railroad between the points mentioned in the articles of association. I think that is hardly an accurate reading of the section under which the certificate is asked. The portion of the section relating to the granting of the certificate is as follows: "No railroad corporation hereafter formed under the laws of this State shall

exercise the powers conferred by law upon such corporations or begin the construction of its road until the directors shall cause a copy of the articles of association to be published in one or more newspapers in each county in which the road is proposed to be located, at least once a week, for three successive weeks, and shall file satisfactory proof thereof with the Board of Railroad Commissioners; nor until the Board of Railroad Commissioners shall certify that the foregoing conditions have been complied with, and also that public convenience and necessity require the construction of said railroad as proposed in said articles of association."

Under that the Railroad Commissioners have to pass upon the specific application of each company, they are to determine whether "public convenience and necessity require the construction of said railroad as proposed in said articles of association," of the petitioning company; that is, something more than determining whether public necessity and convenience require the construction of a railroad between the points mentioned in the articles of association, as the proposed termini of their road. It means something more than merely determining whether public convenience and necessity require the building of any road between the proposed termini; they must determine whether public convenience and necessity require the construction of the specific road proposed in the articles of association of the petitioning corporation. And in determining that question various things are to be taken into consideration by the Commissioners, as suggested in the case of *The Amsterdam, Johnstown and Gloversville Railroad Company*, 86 Hun, 578.

Among other things to be taken into consideration is the route that the proposed road is to take between the named termini; it is evident that the act contemplates the filing of maps of the proposed route, for it speaks of their certifying copies of all maps filed with them, in order that the same may be presented to the Supreme Court; indicating that the route or line of road as shown upon the map is a proper subject for consideration in reaching their decision; thus further indicating that the question for them to decide is whether public convenience and necessity require the construction of the proposed road, not any road. If they were only to determine whether a road was required between any given termini, there would be no occasion for maps or profiles, or any consideration of its character, steam or electric, its route or gauge.

It may sometimes happen, as in this case, that two companies apply for a certificate to construct a road between the same points, and it may be that such Railroad Commissioners can properly certify as to each, that public convenience and necessity re-

quire the construction of its road, or it may be that they can not conscientiously certify that public convenience and necessity require the construction of more than one road; it is a question that must be determined by some one, and the Board of Railroad Commissioners is the only body or tribunal vested with authority to issue the certificate in question, and from necessity, therefore, it has jurisdiction to determine in the case of conflicting applicants, whether certificates shall be issued to both, or only to one, and if only to one, which one.

While, as I have before stated, the applications for the certificates in question made by the relator, and by the Terminal Railway Company, were heard together, yet each was a separate and distinct proceeding, and they must be so considered by us.

For the redress of the relator's grievance a remedy is provided by section 59 of the Railroad Law, by a review of the proceedings before the Railroad Commissioners, formerly by the General Term, now by the Appellate Division, of the department within which it is proposed to build the road in question. The relator has availed itself of that remedy, and it appears by the return of the Railroad Commissioners, that since the issuance of the writ herein, the General Term of the Supreme Court for the Fourth Department has reviewed the proceedings of the Railroad Commissioners in refusing to grant the relator the certificate applied for, and the prevailing opinion of the court is embodied in such return.

Whatever my views may be as to the propriety of the decision of the Railroad Commissioners, or of the General Term in affirming it, it would be unbecoming for me to assert that opinion, because this court can not sit in review of the decision of the General Term of the Fourth Department, nor can it indirectly reverse that decision in passing upon the writ of *certiorari* now before it.

A writ of *certiorari* can not be issued "To review a determination, which does not finally determine the rights of the parties, with respect to the matter to be reviewed," or "Where the determination can be adequately reviewed by an appeal to a court, or some other body or officer." (Code of Civil Procedure, sec. 2122, subdivs. 1 and 2.)

It has been held that it is not a final determination where a resort may be had to some other body, tribunal or officer, for a revision, rehearing or review. (People ex rel. v. Dennison, 28 Hun, 328; People ex rel. v. Supervisors, 49 Hun, 476; People ex rel. v. Nichols, 104 N. Y. 582.)

And in a proceeding to procure a certificate of public convenience and necessity, a review of a refusal by the Railroad Commissioners, to grant such certificate may be had in the Supreme

Court, as I have heretofore stated. The action then of the Railroad Commissioners in refusing to grant such certificate can not be said to finally determine the rights of the parties, and, therefore, the writ of *certiorari* will not lie. Adequate provision has been made for the review of a refusal to issue a certificate, and for that reason, the writ of *certiorari* will not lie. The application to the General Term to review the proceedings of the Railroad Commissioners is a proceeding in the nature of an appeal from their decision, and it has been held that a writ of *certiorari* will not be entertained while an appeal is pending in the same matter. (People ex rel. v. Wallace, 1 T. & C. 438; People ex rel. v. Dennison, 28 Hun, 328.)

When the writ of *certiorari* was issued in this case, a review of the refusal of the Railroad Commissioners to issue a certificate to the relator was pending before the General Term of the Supreme Court, and undecided.

For these reasons, I think that this court can not review in these proceedings the action of the Railroad Commissioners in refusing to grant a certificate to the relator.

There is no provision made in the law for an appeal from, or a review of, the proceedings of the Railroad Commissioners, in granting a certificate of public convenience and necessity, and no other proceeding being authorized by law to review their proceeding in that respect, a proper case is presented to do so by *certiorari*. At common law the office of the *certiorari* was to bring up the record of inferior tribunals to enable the court to determine whether such tribunals had proceeded within their jurisdiction. (People ex rel. v. Betts, 55 N. Y. 600.)

The common law in that respect has been extended in practice and by statute, and now in addition to jurisdictional questions, the court is empowered to determine upon *certiorari* whether "In making the determination, any rule of law, affecting the rights of the parties thereto, has been violated, to the prejudice of the relator."

"Whether there was any competent proof of all the facts, necessary to the improved, in order to authorize the making of the determination to grant."

"If there is such proof, whether there was, upon all the evidence, such preponderance of proof, against the existence of any of those facts, that the verdict of a jury, affirming the existence thereof, rendered in any action in the Supreme Court, triable by a jury, would be set aside by the court, as against the weight of evidence." (Code of Criminal Procedure, sec. 2140.)

That the Railroad Commissioners had jurisdiction in the proceedings is conceded.

Did they in granting the certificate to the Terminal Railway violate any rule of law affecting the rights of the parties, to the prejudice of the relator?

As I understand it, the relator contends that there was such a violation of law to its prejudice, in this, that it having completed its organization first acquired a right to have its application for a certificate heard and passed upon before that of the Terminal Railway, and that the application of the latter being heard at the same time and passed upon before that of the relator, the decision upon its application granting to it a certificate operated to the disadvantage of the relator, because the Railroad Commissioners having decided that only one road was necessary, the issuing of a certificate to the Terminal Railway Company, operated to exclude the relator. The assumption being that if the application of the relator had been heard and decided first, that it would have received the certificate, and the Terminal Railway Company would have been excluded. I can not see that that result would necessarily follow; it might not have received the certificate if there had been no other applicant.

The relator, however, contends that it has a vested right to such certificate as against the Terminal Railway Company.

This contention proceeds upon the theory as stated by the counsel for the relator that "On June 15, 1895, it (the relator) became vested under the law with the right to construct its railroad from Depew to Blasdell, whenever it should appear to the satisfaction of the Railroad Commissioners that public convenience and necessity required the construction of a railroad between these points."

No authority was cited to us to sustain this claim, neither have I been able to find any, and I do not think it can be sustained either upon principle or authority.

I have before called attention to the fact that the certificate is not to be to the effect that public convenience and necessity require the construction of a railroad, but of the railroad proposed in the articles of association of the petitioning company, and as proposed in such articles of association. To say that when it appears the public convenience and necessity require the construction of some road between given termini, that therefore the persons first associated together to build a road between such termini, are entitled as of right to have the Railroad Commissioners issue a certificate to them that public convenience and necessity require the construction of the particular railroad proposed in their articles of association, regardless of the route proposed, the kind of railroad, whether steam or electric, or whether broad or narrow gauge, is to deprive the Railroad Commissioners of a large part, if not all, of the discretion supposed to have been conferred upon them.

But without further discussion of that portion of the statement of relator's claim, it does not seem to me that the relator acquired any vested right by filing its articles of association.

The association of a number of persons together does not constitute them a corporation until all the laws necessary to give them corporate powers have been complied with.

The construction of a railroad is not a matter of right, it is a privilege granted by the State, and can only be obtained by complying with the laws of the State regulating the granting of such privileges. (Matter of A. J. and C. R. R. Co., 86 Hun, 578.)

One of those laws is that before any railroad corporation can exercise any of the powers conferred by law upon such corporations, or begin the construction of its road, it must secure from the Railroad Commissioners a certificate, of the kind hereinbefore described. (Chapter 676, § 59, Laws of 1892.)

The statute does not recognize that prior to the granting of the certificate, the corporation has any powers, it does not say it shall not exercise its powers, but the "powers conferred by law upon such corporations."

If it can exercise no corporate powers, what rights or privileges has it?

Corporate powers and rights go together, one can not exist without the other. The only rights a corporation has is the ability to exercise certain powers. I can not conceive of a corporation with no corporate powers. Powers which can not be exercised are not powers. The ability to exercise corporate power constitutes the breath of life to a corporation, without it it can not exist. Practically, a corporation that has no powers that it can exercise, has no power at all, and is not in fact a corporation. It is not a case of suspended animation, but a case where there has been, as yet, no life.

It seems to me that it is not complete as a corporation until the certificate mentioned has been granted; until that time it is an inchoate thing, and until that time it has no vested rights.

Both applications for certificates having been made at the same time, I think the Railroad Commissioners had the legal right to consider them together, without regard to who had filed their articles of association first, and that consequently no "rule of law affecting the rights of the parties thereto has been violated to the prejudice of the relator."

It is conceded that public convenience and necessity require the construction of some railroad between Depew and Blasdell, and the Railroad Commissioners decided that only one railroad was required; while as an original proposition I might be inclined to differ with them in that respect, yet I do not see that we can review their determination in that regard here: that was a proper

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Corporate powers and rights go together, one can not exist without the other. The only rights a corporation has is the ability to exercise certain powers. I can not conceive of a corporation with no corporate powers. Powers which can not be exercised are not powers. The ability to exercise corporate power constitutes the breath of life to a corporation, without it it can not exist. Practically, a corporation that has no powers that it can exercise, has no power at all, and is not in fact a corporation. It is not a case of suspended animation, but a case where there has been, as yet, no life.

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Both applications for certificates having been made at the same time, I think the Railroad Commissioners had the legal right to consider them together, without regard to who had filed their articles of association first, and that consequently no "rule of law affecting the rights of the parties thereto has been violated to the prejudice of the relator."

It is conceded that public convenience and necessity require the construction of some railroad between Depew and Blasdell, and the Railroad Commissioners decided that only one railroad was required; while as an original proposition I might be inclined to differ with them in that respect, yet I do not see that we can review their determination in that regard here; that was a proper

subject for consideration upon the review of their refusal to grant the relator a certificate, by the Supreme Court of the fourth department.

Having decided that only one certificate should be issued, it is a matter of no practical importance which case was in form decided first, both being considered together.

Having come to the conclusion that a railroad was required, the next thing for them to determine was whether the particular road as proposed by either applicant in its articles of association was required.

In determining that question they had a right amongst other things to take into consideration the routes to be taken in connecting the two termini, and the manner of construction of the proposed roads, and if there was any practical differences in these respects between the parties applying, to consider them in determining to which of them the certificate should be granted.

It seems to me by the findings or opinion of the Commission that in considering the application of the relator, elements were taken into consideration by them that should have no effect or weight in determining a question of this kind. As, for instance, "the parties in interest," it being conceded that both were acting in good faith and of sufficient ability to build the road; "and the lines that are to furnish the same" (i. e., business), whether the corporations were organized in this or other States, or whether the capital thereof was owned by residents of this or of an adjoining State; these elements do not appear to have been considered by the General Term in its review of the refusal to grant the relator a certificate, and presumably, were not called to its attention, and I am not clear as to whether we have a right to consider them here upon the question as to whether the certificate was properly awarded to the Terminal Railway Company, for it is that certificate we are now considering.

But assuming that we have a right to take such alleged errors into consideration, and eliminating them from the case, still I can not say that the action was erroneous in refusing to award a certificate to the relator, and granting one to the Terminal Railway Company.

The burden is upon the relator to show error, and with the improperly considered elements eliminated from the case, I can not say that the decision of the Commissioners would not, or should not have been the same; there would be still enough left in the case to call for the exercise of their discretion as to which of the two applicants should receive a certificate.

We can not consider the evidence as if we were determining the matter in the first instance; some weight and importance must be attached to the decision of the Commissioners, and the burden

is upon the relator to show to us that the decision of the Commissioners was contrary to the clear weight of evidence. (Matter of New Hamburg R. R., 76 Hun, 76; Matter of A. J. & G. R. R. Co., 86 Hun, 578.)

To reverse their decision upon *certiorari*, we must find that there was such a preponderance of evidence adverse to the conclusion they arrived at, that if it had been the verdict of a jury we would set it aside as against the weight of evidence. (Code of Civil Proc. sec. 2140, subdiv. 5.)

I can find no such preponderance of evidence.

My conclusion, therefore, is that the action of the Board of Railroad Commissioners in refusing to issue to the relator the certificate provided for in section 59 of the Railroad Law, can not be reviewed by us in these proceedings because their action did not finally determine the rights of the relator, and because another means is provided by law whereby their decision could be adequately reviewed, and also because, at the time of issuing the writ herein, a proceeding to review the action of the Railroad Commissioners, in the manner prescribed by law, was then pending and undecided. That in the proceedings on the application for a certificate by the Terminal Railway Company, the said Commissioners had jurisdiction of the proceedings, and jurisdiction to determine whether it would issue certificates to both applicants or to only one, and if to one only, which one; that in making their determination they violated no rule of law affecting the rights of the relator to its prejudice; that there was competent proof of the facts necessary to be proved in order to authorize them to make a determination, and that there was not such a preponderance of evidence against their determination as would justify us in setting it aside.

The decision of the Railroad Commissioners is therefore affirmed, and the writ of *certiorari* quashed, with \$50 costs and disbursements to the defendant, the Terminal Railway Company of Buffalo.

I concur, M. H. M. I concur, J. R. P. I concur, J. S. L. I dissent, C. E. P.

Parker, P. J.

The Depew and Southwestern Railroad Company filed its articles of association on June 15, 1895. The Terminal Railway of Buffalo filed its articles of association on June 17, 1895. Each made application upon the same day to the Board of Railroad Commissioners for the certificate required by section 59 of the Railroad Law. Such Board heard the two applications together. Upon the hearing it appeared that each Company proposed to build a road from the village of Blasdell to the village of Depew, a distance of about 11 miles, all in the county of Erie, and

that the road and its construction as proposed in the articles of association of such company was precisely the same. It also appeared, beyond all question, that public convenience and necessity required the construction of such road, and that each company had duly published a copy of its articles of association as required by said section 59.

The Board refused to grant any certificate to the Depew and Southwestern Railroad Company, and did grant a certificate to the Terminal Railway of Buffalo. The former company thereupon obtained a *certiorari* to review the legality of such proceedings and determination, and this matter now comes before us upon the return of such writ.

The Board in its decision states, "that one line can perform all the service that will be required of it, for the present, at least, and the granting of one application must necessarily mean the denial of the other." It then proceeds to examine "the equities" of the two companies, and reached a conclusion in favor of the Terminal Company substantially on two grounds.

First. That it appears from the profile and map filed by the two roads, that such company's road has a considerable less number of grade crossings of other railroads than the Depew and Southwestern has.

Second. That the Depew and Southwestern Railroad will evidently be constructed by capital interested in the Lehigh Valley Railroad Company, a foreign corporation, while the Terminal Road would be constructed by capital interested in the New York Central and Hudson River Railroad Company, and that, therefore, in their judgment, the New York capital should be favored as against the nonresident and foreign capital.

The claim of the relator is, that upon the conceded facts appearing before the Board, and accepted by it, the certificate should have been issued to it, instead of to the Terminal Company.

The Terminal Railway of Buffalo has obtained an order of court, bringing it in as a party to these proceedings and is now before us, defending the action of the Board.

I concede at the outset of this examination, that if the two companies stood with equal legal rights before the Board, at the time they made the application for a certificate, the relator can have no relief in these proceedings. But the relator claims that it became a duly organized railroad company on June 15, 1895, and that the Terminal Company was not organized until June 17, 1895. That by reason of such priority in organization (inasmuch as the road proposed by both companies is identical) it acquired a prior right to the certificate, if in the judgment of the Commissioners but one road was necessary.

To this it is answered by the Terminal Company, that neither company became organized until it had obtained the certificate required by section 59. That no association of individuals can become a railroad corporation until it has complied with all the laws of the State regulating the granting of such privileges and that one of those laws is found in said section 59, and is to the effect, that before any railroad corporation can exercise any of the powers conferred by law upon such corporations, or begins the construction of its road, it must secure from the Board of Railroad Commissioners a certificate that public convenience and a necessity require the construction of the railroad as proposed in its articles of association. That, therefore, when the application was made to the Board, neither company had perfected its organization, and neither could claim a preference over the other, on that ground. In other words, the claim is, that by such section, the Board of Railroad Commissioners is given the power of granting or refusing incorporation as a railroad company, to any persons applying for such a franchise.

I do not so construe the provisions of that section, and aside from the question whether the Legislature has the power under the Constitution, to devolve such a power upon the Board, an examination of the statutes regulating this subject, and a reasonable construction of the requirements of section 59, convince me that no such power was given, and that none such was intended.

By section 2 of the Railroad Law, it is provided that "Fifteen or more persons may become a corporation for the purpose of building, maintaining and operating a railroad, etc., etc., by executing, acknowledging and filing a certificate, in which shall be stated, etc., etc. Section 9 of the General Corporation Law (chapter 687 of the Laws of 1892) provides that such certificate duly filed shall be presumptive evidence of its incorporation."

These two sections seem to contain express provisions as to how a corporation shall be formed, and as to what shall be evidence that it has been formed. The 15 or more persons become a corporation upon filing the certificate. Such certificate can not be filed until the amount of stock required has been paid in (section 2), and not until a tax has been paid to the State for the privilege of so doing. (Section 5 of General Corporation Law.)

Following those sections, providing for the organization of the corporation, section 59 provides that "No railroad corporation hereafter formed under the laws of this State shall exercise the powers conferred by law upon such corporation, or begin the construction of its road, until the directors shall cause a copy of its articles of association to be published" as in such section specified, nor until the Board of Railroad Commissioners shall

certify that it has been so published, and also, "that public convenience and a necessity require the construction of the road as proposed in its articles of association."

Now what is the fair purpose and intent of these provisions? Is it equivalent to saying to the incorporators, although you have paid the tax, and filed your certificate, which is the evidence of your incorporation — yet you are not a corporation, and have not yet acquired any corporate powers, until, by some process or other, you shall have secured from the Board of Railroad Commissioners a certificate that the road you propose is a public necessity? Clearly not.

The building of railroads where public necessity did not really need them, had become too frequent, and the State deemed it wise to restrict it. In order to do so it did not change the existing method of organizing railroad corporations. It was still left free for any association of individuals to become such a corporation under the general laws. But the State, by the enactment of section 59, restrains the exercise of its corporate powers, unless the corporation when so formed, can go a step farther, and make proof to the satisfaction of the Board of Railroad Commissioners, that public convenience requires its road. If proof of such fact had been required as a condition precedent to the filing of the certificate, then the purpose to withhold all corporate powers, except in those cases where the necessity of the road was made apparent, would be plain; but such a method seems to be impracticable where corporations are formed only under general laws, for the reason that, if the general laws were made applicable, only to such associations, and for such enterprise, as the Board of Railroad Commissioners might deem expedient, it would be a practical surrender of legislative powers to such Board.

If the granting of corporate rights depends upon the question whether it be expedient, in the particular instance applied for, then the proofs of expediency must be made to the Legislature itself, and its judgment alone must determine that question. (*People, etc., v. Fire Assc. of Philadelphia*, 92 N. Y. 311; *Barto v. Himrod*, 8 N. Y. 483.)

Such may have been the reason why a corporation is allowed to be formed under the general laws, but the exercise of its corporate rights suspended until the fact of its necessity is proven to the State. But whether that is so or not, corporations are still allowed to be formed and to exist, with corporate powers conferred upon them, and section 59 affects only the exercise of such powers.

It is said that one can not conceive of a corporation that can not exercise corporate powers, and that until the right to exercise such powers is granted the corporation can not exist. I think

one might conceive of a corporation as existing, although the exercise of its corporate powers was restrained, until the directors should cause its articles of association to be published for three weeks. But concede that the organization of the corporation is not fully completed, until it has performed all the conditions required before it can exercise its corporate powers, nevertheless, such fact is of little force in determining the question before us.

The question is, what rights have the organizing company at the time it applies to the Board for the necessary certificate. Whether it has, or has not, a complete corporate organization, it has at least so far proceeded toward that condition, that certain fixed relations are created between it and the State. By taking the proceedings provided for by section 2 of the Railroad Law, and by paying the tax to the State, it has entered into a contract with the State, that its corporate powers shall be fully enjoyed in the event that it proves to the satisfaction of the Board, the two facts specified in section 59; and it is of no importance, whether it appears before such Board as a complete corporation or not, so long as its relations with the State secure to it the rights above stated.

The duties of such Board and the extent of its powers seem to be clearly indicated in such section. It is to take proof upon two questions only. First. Have the articles of association been published as required? Second, is the proposed road a necessity? Is there anything in those provisions indicating a purpose to give to the Board power to grant or refuse to the applicants a franchise? Evidently not.

They are to furnish to the State evidence of a fact, or rather two facts, which it is deemed necessary should exist, before the franchise already granted shall be fully enjoyed, therefore it is, that a certificate is to be issued provided those facts are proved to the satisfaction of the Board, and therefore, it is that the certificate of the Board to that effect is made satisfactory evidence to the State of the existence of each of such facts.

Can it be claimed under the provisions of this section that the Board may take the proofs, and be fully satisfied that the required publication has been made, and that public convenience demands the road, and yet refuse to give a certificate, because it understands that the road is to be built with foreign capital, or because it is informed that another company is soon to be engaged to build the same road, and it prefers to wait and give the certificate to it.

If the applicant for the certificate has as yet, acquired no organization and no rights — if it is before the Board asking from it the right to exist, or to act, there does not seem to be any reason why the Board might not refuse, for those reasons, or any other that they might fancy. But I hardly think that anyone upon read-

ing the section, would conclude from its language that such a power was conferred upon it.

I conclude therefore, that any association of individuals that pays the tax, and organizes a railroad corporation as provided by the second section of the Railroad Laws, does so with the understanding that, before it can exercise the corporate powers so acquired, it must prove to the satisfaction of the Board of Railroad Commissioners — or to the Supreme Court, that public convenience required the construction of its road. Such may be said to be the terms of its charter, so acquired from the State. But I also conclude, that it does so with the assurance that if it is able to make such proof, it has the right to require such Board to hear it, and to issue a certificate that it has been made.

I do not intend to intimate that the certificate could be claimed unless the proof is entirely satisfactory to the Board, or to the Supreme Court upon application made to it under that section. I concede that the burden of proving that fact is all upon the applicant, and that a very large discretion is given to the Board in determining whether the road proposed is, or is not, a public necessity, but being satisfied of that fact, it is as much the duty of the Board to issue the certificate, as it is to take the proof.

In short, I conclude, that section 59 does not devolve upon the Board of Railroad Commissioners the power to determine whether the general statutes for the formation of railroad corporations, shall or shall not apply to the applicant. It does not invest the Board with the power to grant or refuse a franchise. It but imposes upon it the duty to take proof upon two specified facts, and if satisfied of their existence to issue to the applicant a certificate to that effect.

The matter of the organization of the corporation, and of its right to exist, is a matter entirely between the applicant and the State, and the relation of the Board, and its action on the matter, is but a means provided by the State for the benefit of the applicant. The State having required the applicant to make such proof, has in this way provided a method for its so doing, and manifest justice requires that it should be given the full benefit of the proof when it is made.

Now in the event that two associations of individuals organize under such sections of the statute two corporations, and each proposes in its articles of association to construct identically the same railroad as the other, and suppose the second is organized before the first has made application for the certificate required by section 59, what should be the rule that fixes and controls the relations between themselves and the State?

In view of the relation which by its incorporation is at once created between the organization company and the State, as above

stated, should it not be that the corporation subsequently organized, should be deemed to take its franchise subject to the right of the other to make the proofs, and have the certificate? Does not the State owe that much protection to the corporation first organized? Such corporation has as it were, applied to the State for a charter to build the railroad. The State has taken the tax for the same, and given it the charter, but requires it before proceeding thereunder to prove to the satisfaction of the Railroad Commissioners, that the road it proposes to build is a necessity.

Subsequently the second company applies for a charter to build the same road. May the State give it a charter also, and allow its Board of Railroad Commissioners to refuse a certificate to the first because it prefers to have the road built by the second?

Certainly under the old system of creating corporations by special charter, it would have been a breach of public faith to grant the right to build a road to one company, and then annul the charter and give the same franchise to another and yet such action would not be different in principle and effect from the joint action of the State and Board above supposed.

But discussion seems to be unnecessary on this question, for it will hardly be disputed, that if upon organizing under the provisions of section 2, a corporation acquires a right to be heard before the Board of Railroad Commissioners, and to a certificate, if it proves to its satisfaction the two facts, required by section 59 to exist, such right, would be prior and superior to that of a corporation subsequently formed for precisely the same purpose.

It is argued that when two roads are proposed to be built between the same termini, by different corporations, the Board of Railroad Commissioners may examine the maps and profiles by each, and determine which is the better route and road, and base their action upon that ground, if they conclude that but one road is necessary.

But whence does the Board acquire the authority to examine into those questions. The one question presented to it by section 59 is, as to the necessity of the road proposed in the articles of association. Section 2 of the Railroad act specifies what the articles shall contain on that subject, and not a word can be found in the statute, indicating that the organization of the corporation, or even its right to exercise its corporate powers, is made to depend upon its line or the grades which shall appear upon its map, or profile filed before application is made for the certificate. But on the contrary, the statute expressly provides that both its line, and its grades and even its termini may be changed by the corporation, after it has begun the construction of the road. (See Railroad Laws, sections 6 and 13.)

True by section 59 the Board in the event that it has refused a certificate is required to certify to the Supreme Court on the request of the applicant, "maps and papers" on file before it, but such provision is of no force in determining the question now before us.

Maps might be very convenient, may be used to explain the road proposed, and yet, so long as the map may be materially changed at any time after work is begun, it evidently can not be deemed a controlling description, or specification of such road. The method of crossing other railroads is provided for by other sections of the Railroad Laws (see section 12 Railroad Law) and hence it seems clear that the line of the road as delineated on the map or profile, is not the road about which the Board is to certify. Much less are they authorized to make any particular line, or grade, or mode of crossing another road, a condition of granting the certificate.

I do not dispute but that when it is not possible to build the proposed railroad without crossing at grade many highways, and other railroads, the Board might take that fact into consideration in determining whether public convenience and necessity required its construction. That fact might be an element in determining the real question submitted to the Board by section 59, and the Board might conclude that the dangers to be apprehended from such a road would exceed the public advantages to be derived from the same. (See Matter of New Hamburg, etc., Road, 76 Hun, 76.)

But when it appears that the road can be built so as to avoid such grade crossings, and when the directors of the corporation state to the Board their readiness to so build it, as appears was done in this case, the mere fact that the profile is drawn at grade, is by no means a material fact in considering the question of its public necessity.

In the case before us, the articles of association of each company state substantially as follows: That the kind of road to be built and operated shall be a railroad of standard gauge, to be operated by locomotive steam power, and that it is to be built, maintained and operated from a point at or near the village of Blasdell, to a point at or near the village of Depew in the State of New York. Such a statement is all that section 2 requires to be contained in the articles of association, and whether such a road is or is not required by "public convenience and a necessity" was the real question presented for the decision of the Board.

Nor do I understand that the Board has taken into consideration the question of crossings in determining the necessity of the road which is proposed in the articles of association of each company. The Board treats the road proposed as precisely the same,

and say in their decision, "that the granting of one application must necessarily mean the denial of the other." They do not, therefore, decide that the road of the Terminal Company is a necessary road, and that that of the relator is not. They refer to the fact that the profile of the relator's road shows more crossings at grade, as a reason why they select the other company, but they do not determine that the road, as proposed by the relator in its articles of association, is not "required by public convenience and a necessity."

It appears from the record, too plainly for contradiction, that the Board did decide that the road as proposed by the relator was so required, and the certificate issued to the Terminal Company, is based upon that very decision. Although there was two applications to the Board there is but one decision.

Both applications are heard, and the "equities" (so called by the Board) of both companies are considered together, and the decision is that, inasmuch as only one of the proposed roads is necessary, the certificate, of necessity, must be denied to the relator because it is issued to the Terminal Company. Thus the question whether the prior organization does not give the prior right, is squarely presented by this determination, and it can not be evaded upon the theory that the Board has decided that the relator's proposed road was not a necessity.

It is said that the question presented in this proceeding was necessarily involved in the decision made by the General Term in the Fifth Department, and that hence this writ can not be sustained. I think that the scope of that proceeding could not include the question here presented. That was an application under section 59 to that court for a certificate that its proposed road was a public necessity, made by this relator on the ground that such certificate had been denied by the Board of Railroad Commissioners. The Terminal Road was not before that court in those proceedings, and evidently any decision that that court could then make could have no force or effect against it. The question whether such Terminal Company's right to a certificate was not subordinate to the rights which this relator acquired by its prior organization, manifestly could not be adjudicated there. And even if the court had held that it would give a certificate to the relator upon the theory that the one to the Terminal Company was improperly granted, yet such determination falls far short of the relief asked for here. By such a decision the Terminal Company would have been in no way restrained from proceeding with its road. In this proceeding the relief sought is the reversal of the whole proceedings before the Board of Railroad Commissioners, which, in effect, would be to deprive the Terminal Company of its certificate, and to lay down a rule for the guidance of

the Board upon another application made. The most that the court could have done on that application was to give this relator a certificate which would, in effect, allow both roads to be built. In this application the question of a prior right is to be settled, and if I am correct, results in giving to the relator the one road alone which public necessity requires. And it is evident that that court did not consider that the question here could be decided there.

In its opinion, which is in the return before us, it is said:

"The propriety of granting the certificate to the Terminal Company can not be the subject of consideration in this matter. The claim urged in behalf of the moving company, that it was not within the power of the Board to deny to it the certificate, and to grant one to the other company, presents a question which can only be considered and determined elsewhere than on this statutory review."

Thus the court assumed the legality of the proceedings upon which the certificate was issued to the Terminal Company and denied one to this relator only on the ground that two such roads were not necessary. So far as there are any expressions in that opinion not in harmony with the conclusions in this, they seem to be "obiter" to the question before the court, and, therefore, not controlling.

Upon the record in this case, we are to inquire whether, in making its determination, the Board violated any rule of law affecting the rights of the parties before it, to the prejudice of the relator. (Code, sec. 2140, sub. 3.)

The error complained of is not that the Board refused to determine that the road proposed by the relator was a public necessity, but that having decided that it was, it issued the certificate to another company, and, therefore, refused it to the relator. If the refusal to issue the certificate had been solely on the ground that its road was not a necessity I concede that the relator's remedy, and its only remedy, would have been to apply to the Supreme Court, under the provisions of section 59. but for the error of which it now complains, no relief could have been obtained in such proceeding, and, therefore, it is no bar to this one.

The whole question seems to me to turn upon a single proposition. If, upon its organization under section 2 of the Railroad Law, the relator acquired a right to make the proof before the Board, "that public convenience and a necessity required the construction of the road as proposed in its articles of association" and to demand a certificate to that effect in the event that it did satisfy the Board of that fact, an error has been committed by the Board in the determination which it has made. Such deter-

mination ignores, entirely, such a right on the part of the relator. It proceeds upon the theory that an applicant appears before that Board without any rights whatever; that although it might prove to the entire satisfaction of the Board all that section 59 requires it to prove, yet the certificate may be denied on some ground not specified in any statute, and of which the applicant could have no anticipation.

Such a theory of the powers and duties of the Board, under the provisions of section 59, is, in my judgment, altogether too broad.

Under the application of the relator to the Board, it should have determined whether the road proposed in its articles of association was, or was not, a public necessity, without reference to the application of the Terminal Company, and if only one road, such as it proposed in such articles was necessary, the preference should have been given to it, rather than to the Terminal Company. The relator had acquired the right of priority over the company, and the Board erred in disregarding it.

For these reasons I think the determination of the Board awarding the certificate to the Terminal Company, and refusing it to the relator, should be annulled with costs.

XXXI.

IN THE MATTER OF THE APPLICATION OF THE NIAGARA FALLS STREET RAILWAY COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

November 9, 1896.

On reading and filing the application of the Niagara Falls Street Railway Company for a certificate under section 59 of the Railroad Law, dated November 29, 1895, by James S. Simmons, vice-president, the articles of association of said company and due proof of the publication thereof, due proof of the publication of notice of hearing before this Board, a map showing the proposed route of said railroad company, and after public hearings on said application on January 22 and February 4, 1896, when evidence and arguments were heard, S. J. Lawrence, counsel, appearing for said application, W. Caryl Ely, counsel for the Niagara Falls and Suspension Bridge Railway Company, appearing in opposition thereto, and it appearing that the conditions of section 59 of the Railroad Law have been complied with and that public convenience and a necessity require the construction of said railroad, it is

Ordered, That said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that the conditions of said section have been complied with and that public convenience and a necessity require the construction of said railroad as proposed in said articles of association and as shown upon said map.

XXXII.

IN THE MATTER OF THE APPLICATION OF THE SYRACUSE AND SUBURBAN RAILROAD COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

November 9, 1896.

On reading and filing the application of the Syracuse and Suburban Railroad Company for a certificate under section 59 of the Railroad Law, dated July 9, 1896, by A. Cady Palmer, president, the articles of association of said company and due proof of the publication thereof, due proof of the publication of notice of hearing before this Board, a map showing the proposed route of said railroad company, and after public hearings on said application on August 26, October 19 and October 23, when evidence and arguments were heard, Giles Stillwell and Thomas Hogan, counsel, appearing for said application, T. E. Hancock, John W. Hogan and William P. Gannon, counsel, appearing in opposition thereto, and it appearing that the conditions of section 59 of the Railroad Law have been complied with and that public convenience and a necessity require the construction of said railroad, it is

Ordered, That said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that the conditions of said section have been complied with and that public convenience and a necessity require the construction of said railroads as proposed in said articles of association and as shown upon said map.

After a personal inspection of the proposed route and the general situation in the city by members of the Board, and in line with its former decisions, it recommends that, if possible, a traffic agreement be made with the existing company for the use of the tracks of the existing line on a portion of East Genesee street so as to avoid the necessity for the construction of the proposed line on East Fayette street.

XXXIII.

IN THE MATTER OF THE APPLICATION OF THE ONONDAGA LAKE RAILROAD COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

November 9, 1896.

On reading and filing the application of the Onondaga Lake Railroad Company for a certificate under section 59 of the Railroad Law, dated September 1, 1896, by Edward A. Powell, president, the articles of association of said company and due proof of the publication thereof, due proof of the publication of notice of hearing before this Board, a map showing the proposed route of said railroad company, and after public hearings on said application on September 28 and October 23, when evidence and arguments were heard, William Nottingham, counsel, appearing for said application, William P. Gannon, counsel for the Syracuse Rapid Transit Railway Company, appearing in opposition thereto, and it appearing that the conditions of section 59 of the Railroad Law have been complied with and that public convenience and a necessity require the construction of said railroad, it is

Ordered, That said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that the conditions of said section have been complied with and that public convenience and a necessity require the construction of said railroad as proposed in said articles of association and as shown upon said map.

The granting of this certificate is to be in no way considered as an approval of a crossing at grade of the tracks of the New York Central and Hudson River Railroad Company, and after a personal inspection by members of the Board of the proposed route it recommends that an under or over crossing be constructed at that point.

XXXIV.

IN THE MATTER OF THE APPLICATION OF THE CATSKILL, CAIRO AND WINDHAM STREET RAILROAD COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

November 9, 1896.

This application was filed with the Board on April 25, 1896. Public hearings were given on the same on May 11 and June 29 in Albany and on June 11 in Catskill. W. C. Courtney appeared

for the applicant; Emory A. Chase for the Catskill Mountain Railway Company, in opposition. The route of the proposed railroad for its entire length is near to and parallel with the railroad of the Catskill Mountain Railway Company.

After a personal inspection of the proposed route and the existing line, and upon the evidence submitted, it seems to the Board that there is not business or traffic enough to authorize the construction of an additional railroad. The existing line is not self-sustaining and has not been at any time since its construction. It has ample facilities to transact all the business that is offered or which is likely to be offered for several years to come. From the applicant's own evidence it is apparent that the travel along the proposed route is not such as would make the construction of this road a public convenience and necessity as contemplated by the statute.

The application is, therefore, refused.

LONG LAKE RAILROAD COMPANY.

Following is the opinion of the Appellate Division, Third Department, reversing the action of this Board in its refusal to issue a certificate, under section 59 of the Railroad Law, to the Long Lake Railroad Company; also the dissenting opinion of Justices Herrick and Merwin:

APPELLATE DIVISION — THIRD DEPARTMENT.

IN THE MATTER OF THE APPLICATION OF THE LONG LAKE RAILROAD COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

Before Parker, P. J.; Landon, Herrick, Merwin and Putnam, Associate Justices.

Application to review the determination of the Board of Railroad Commissioners in declining to grant a certificate under section 59 of the Railroad Law.

John L. Henning, attorney for the Long Lake Railroad Company.

Hamilton Harris, attorney for the New York Central Railroad Company.

John P. Badger, attorney for Dodge, Meigs & Co.

J. W. Houghton, attorney for George T. Underwood and Selia E. Marsh.

D. G. Griffin, of counsel, for Sherman and others.

Parker, P. J.

The Long Lake Railroad Company filed its certificate of organization on April 17, 1895, and it proposes to build a railroad from Axton, in Franklin county, southerly along the Raquette river, a distance of about 10 miles, to Long Lake. It applied, under the provisions of section 59 of the Railroad Law, to the Board of Railroad Commissioners, for the certificate required by that section. The Board refused to give the certificate, and, upon the maps and proceedings certified to this court, the company, under the provisions of such section, now asks from us an order directing that such certificate be issued. On the hearing before the Commissioners the application was opposed by the New York Central and Hudson River Railroad Company; also by certain individuals organized for the purpose of protecting the State Forest Preserve. And such parties have also appeared by attorney and opposed the application now made to this court.

For the purposes of this case I will concede that the burden is upon the applicant to show us affirmatively that the Railroad Commissioners have erred in their refusal to grant the necessary certificate. And further, I will concede that due weight should be given by us to that greater technical knowledge which they, rather than this court, are presumed to possess. And yet I can not but think that in this case the Board should have given the certificate desired.

Aside from the question whether the proposed road crossed lands owned by the State, there was but a single question presented to the Board for its consideration. That was whether "public convenience and necessity required the construction of the road, as proposed in the articles of association." As bearing upon that question some facts appear in the case that are too plain for discussion. First, the entire community to be affected by the road are desirous that it be built. All seem to be of one accord that it would be a benefit to them, for no voice from that locality is raised against it. As bearing upon some objections that have been made to its construction, it is a significant fact that the Forest Commission, who have in charge the interests of the State in this domain, although notified of the hearing before the Railroad Commissioners, have no word to say against it. The principal objector is a railroad company that is at this very time operating a railroad through the very heart of the Adirondack forests. Next, it is apparent that there is no other road that can furnish the same advantages or approximately the same advantages to the community that this road would furnish. It competes with no other road, for there is none nearer to it than a distance of 25 miles, through a wilderness, without highways, and through which there are no means of passing, ex-

cept by the natural streams and over difficult "carries." Into such a wilderness the road extends, and so desirous are the owners of the land over which it will pass for its construction that they stand ready to assist the company by donating to it the right of way.

It further appears that, from Axton, the northern terminus of the road, the Raquette River Railroad Company is about to construct a road to Tupper Lake, a distance of about 10 miles, in a northwesterly direction, where it will connect with both the Adirondack and St. Lawrence Railroad and the Northern Adirondack Railroad. A company has been organized to build that road, and a certificate of its necessity has been granted to it by the Board of Railroad Commissioners. Although it is intimated in the decision of the Board that such road is not to be built, there is not a particle of evidence to that effect. For aught that appears, it is already in process of construction, and we should assume upon this hearing that it will be built as proposed in its articles of association.

Thus Axton, although but a hamlet, is a place of importance, inasmuch as it is the point where communication to points outside of the Adirondack wilderness begins. From this point the road in question extends to the northeastern end of Long Lake, from whence steamboat communication on that lake extends to the village of that name, and also the whole length of the lake, a distance of about 12 miles.

It is objected that the country, through which this road passes, is so sparsely settled and furnishes so little business that such a road is not necessary.

The evidence discloses that there are large lumber interests in that neighborhood; that on Long Lake there are several hotels, much frequented in summer; that at Blue Mountain Lake, about 12 miles further south, there are other hotels, and, in fact, that all the country in that vicinity is a favorite summer resort; that now all the supplies for those engaged in lumbering, and for the hundreds, if not thousands, of summer boarders and visitors at that locality are taken in some 40 miles by wagon haul from North Creek, a place in the southeastern corner of the Adirondack domain, at an expense of 75 cents per 100 pounds. If this road is constructed, such freights will come in from the north to Long Lake, all the way by rail, and can be distributed to Blue Mountain Lake, Raquette Lake, Indian Lake, and divers other points of summer resort in that locality, at a much shorter haul and much less expense. So also the hundreds of tourists that in the summer visit that locality will be equally and, in the same manner, accommodated. Those who locate on Long Lake can go all the way by rail or steamboat. Those who locate on the lakes adjoining

will have so much less transfer through the woods to endure. There is an immense water power close to the line of this road, and large tracts of lumber extend on either side of it, and of Long Lake. Clearly, the opening of such a locality to a market, by rail, is not only of immense advantage to such industries, but also the profits derived from that business are likely to prove a profitable source of income to the railroad company. Without going more into detail, it seems very clear to me that the interests of the public in that locality will be very greatly promoted by the construction of that road.

If the convenience and necessities of the public in that locality require the road, it plainly answers the requirements of the statute, unless some other public interests are prejudiced by it.

One of the objections urged against the road is, that it proposes to cross lands belonging to the State. If this were so, I should consider it an insuperable objection. But, upon the evidence, it can not be determined that such is the fact. The proof is by no means sufficient to enable us to adjudicate that the title to any part of the land over which the road passes is in the State, and even if a doubt is raised upon that question, it would be unjust to deny this company the right to exercise their corporate franchises, because of that doubt. Granting them the certificate they ask will not affect the title of the State, if it has any, nor prejudice its right to stop the construction of the road upon any land that belongs to it. And it is apparent, from their decision, that the Railroad Commissioners have not found such to be the fact, nor based their refusal on any such ground.

A further objection urged is, that by the building of the road the lands in that locality will be greatly enhanced in value, and that it will, therefore, be more difficult and expensive for the State to purchase the same and add them to the "State park," provided for by section 120 of chapter 332 of the Laws of 1893.

I have no doubt that public interests require the preservation of the forests in the Adirondack domain, and the benefit of the scheme on the part of the State to purchase and preserve them, can hardly be overestimated. But I am not willing to adopt the theory that, in order to do so at the cheapest possible figure, the officers of the State are called upon, either by direct or indirect action, to use their official powers to depreciate the market value of such lands. Undoubtedly, it is to be regretted that the State did not long ago purchase these lands, but inasmuch as it has not, and others have done so, it is not unreasonable that they should now desire to utilize their property for all that it is worth. They are asking no other or greater privileges for the benefit of their property than the State has freely granted to all other localities; and for the State to refuse them, simply because

it wishes itself to acquire their property, is but a method of confiscating the property of a few for the benefit of the whole, and is utterly at variance with the theory of our constitution as well as with the first principles of justice. In my judgment, the idea that the State can purchase these lands cheaper if this railroad is not built, is an element that should have no control in the decision of the question now before us. But the concession that it would enhance the value of such lands is strong evidence of its public convenience and necessity.

It is further objected that it is against the policy of the State to allow railroads to be built into the Adirondack forests. It is the policy of the State to procure title to all the lands it can in that region; to preserve the forests thereon, and to prevent other parties from running roads through lands so acquired. Beyond that I do not discover any legislation indicating an intent to exclude that locality from the benefits of railroad communication with the rest of the State. Nor can I discover that the proper preservation of the forests in that domain requires the total exclusion of an additional line of railroad through it. There has recently been constructed one line which enters at its southwestern edge and extends through to the northeastern corner. Also, a line extends from the northwest down to the center of that region at or near Tupper Lake. Such roads have proved to be a great convenience, not only to those living in the localities where they run, but to thousands of other citizens, who annually seek that region for the benefits to their health, or for the pleasure, which it affords. The line of a railroad is such an insignificant strip through the immense area of forests that it practically detracts nothing from their beauty and is hardly an invasion of their solitude.

These lines, however, add but little to the facility of access to the southeastern portion of the Adirondack region.

The line proposed stretches down into that section, and instead of extending too far, if it could be extended 40 miles further to North creek and there connect with the railroad extending down the Hudson river, it would, in my judgment, be a great public convenience to hundreds of citizens who make their summer resort throughout the forests in that region.

I have carefully read the decision of the Board of Railroad Commissioners, and I am somewhat in doubt as to the real ground upon which they denied this application. Upon the only question before them, to-wit: "Whether the public necessity and convenience required the road," they are quite indefinite. They say that the evidence upon that point is "far from strong" is "very slender," but they do not say that in their judgment "public necessity and convenience does not require the construction of the road." The feature which really controlled their decision

seems to have been, that the articles of association for the Raquette River Railroad Company, above mentioned, were filed at the same time with those of this applicant, and that the directors of both companies are the same, but that this applicant did not apply for a certificate under section 59, until one had been granted to the other company. They say that had they then known that it was the purpose to extend a railroad 20 miles instead of 10 miles into this region, they would not have granted the certificate to the Raquette River Company, and for this reason they deny the application of the second company. I gather from this that the real reason for denying this application is, not that it is unnecessary to the locality through which it extends, but that it penetrates too far into the forest, and is, therefore, not in harmony with "the general policy of the State as to the preservation of the Adirondack domain."

Concede that that is a question to be considered by them, yet, as I have stated above, I cannot discover that the construction of a road 20 miles into this region, would at all conflict with the general policy of the State. On the contrary, I think it would be in entire harmony with its procedure in this respect. It has already allowed a railroad from the southwest to the northeast corner of that domain, and from the northwest down to Tupper Lake, greatly to the advantage, not only of the country itself, but also to that of very many citizens residing elsewhere; and it is but an invidious distinction to now deny equal facilities to those seeking to enter the southeastern portion of that domain. It is the destruction of the forest, and not facility of access to a few central points in that domain, that the policy of the State is seeking to prevent.

It is further objected, that the promoters of this road are not acting in good faith, because they have organized two companies to build the road from Tupper Lake to Long Lake.

If they intend, by so doing, to charge extravagant rates, there are provisions of law which can control that; and that there are any other evils to be apprehended from the building of 20 miles of road by two companies, I am unable to discover. At all events, that fact is not at all controlling upon the question whether public convenience and necessity require the road.

None of the evils, which the statute was designed to prevent are apparent in this case. There is no existing railroad company whose interests are to be unfairly affected by it, and no alluring but profitless investment are offered by it to the unwary citizen. It seems to be a plain case where the necessities and convenience of the public, in that locality, as well as those of a large number of citizens, who annually in the summer time seek access to that vicinity, require the construction of the road, and where no other public interests, proper to be considered in connection with that

question, will be prejudiced thereby. In my judgment the Railroad Commissioners erred in not granting the certificate asked for, and an order should be made by this court requiring them to do so.

Herrick, J., dissenting.

I regret that I am unable to concur in the opinion of Mr. Justice Parker.

In determining appeals of this kind we have heretofore held that, "We can not consider the evidence as if we were determining the matter in the first instance; some weight and importance must be attached to the decision of the Commissioners, and the burden is upon the relator to show us that the decision of the Commissioners was contrary to the clear weight of evidence." (People ex rel. Depew R. Co. v. Commrs., 4 App. Div. 259.)

It has also been heretofore said, "The Railroad Commissioners are vested with the supervision of the railroads of the State; it is made their special and peculiar duty to investigate and inform themselves as to the condition of existing roads and as to the needs of the various parts of the State for transportation facilities; and their opinion upon these matters, in regard to which a proper discharge of their official duty requires them to be specially informed, is entitled to respect and consideration." * * * "Their determination as to whether they will grant a certificate of public convenience and necessity is necessarily and properly largely a matter of discretion, not an arbitrary discretion, but a discretion enlightened and guided by their experience in the affairs of railroads, the problem of transportation, the needs of the people, together with the special facts brought before them in each particular case."

It has also been said, "That unless the court can see that the decision of the Board of Railroad Commissioners was founded upon erroneous legal principles, or that it proceeded contrary to the clear weight of evidence in arriving at its conclusion upon any question of fact, or that it has abused the discretion vested in it, and has arbitrarily refused to issue the necessary certificate, I do not think that the court should reverse its determination and compel it to issue a certificate." (Matter of Amsterdam, J. & G. R. R. Co., 86 Hun, 578.)

In this case it does not seem to me that the decision of the Railroad Commissioners in refusing to issue the certificate applied for was founded upon erroneous legal principles, or that the decision was contrary to the clear weight of evidence, or that it has arbitrarily refused to issue the certificate.

The good faith of parties applying for certificates is always a matter that is entitled to weight in considering the application, and in this instance the Railroad Commissioners had a perfect

right, amongst other things, to take into consideration the fact that the incorporators of the proposed Long Lake Company were also the incorporators of the Raquette River Company, that the certificates of incorporation bear the same date, but that the certificate of the Long Lake Company was not filed until after the application was made and granted to the Raquette River Company, and its existence not disclosed to the Commissioners until after such certificate was granted. These facts, the Commissioners say, would have had some effect upon their action in the case of the Raquette River Company had they been aware of them at that time.

It is obvious that by this method of proceeding, a railroad may be continued on indefinitely, section by section.

But aside from these considerations, and treating the application of the Long Lake Company as a separate and distinct company in all respects from the Raquette River Company, it does not appear to me that the refusal of the Railroad Commissioners to say that public necessity and convenience required the construction of this road, was against the clear weight of evidence.

It is a matter of common knowledge, and is indicated by the evidence before us, that the lands in that part of the State where it is contemplated to run this road, are owned in large tracts by the State, by lumber companies, speculators, and those desiring to establish private forest preserves. The country is sparsely settled, and practically the only industry is lumbering, the other pursuits being hunting and fishing, and the keeping of hotels and boarding houses for the accommodation of sportsmen and tourists.

Logging, or the transportation of logs from which lumber is to be made, is by floating them through the innumerable streams and small lakes distributed through this country, to the mills.

It is proposed to build this road from Axton to the outlet of Long Lake, a distance of about 10 miles. Axton it appears from the evidence, is a lumber or logging camp, with a few huts or houses for the loggers and lumbermen, the name itself is significant. It does not appear whether it is inhabited all the year, or only during the logging season. At its proposed terminus at the outlet of Long Lake, there is no settlement whatever; the country that it runs through is wild forest land, and is all owned by a lumber company, and by two private individuals; and I may say in passing that the fact that such persons are willing to give to the company the land for its proposed route through their lands; lands which they have stripped of the larger portion of their value by cutting therefrom all the merchantable timber, does not strongly impress me as a reason why the certificate should be granted, nor does it indicate to my mind that there is any public

necessity for it; the land proposed to be given being of apparently little or no intrinsic value.

Long Lake village is some miles down the lake, and is reached by what is known as a State road, and another road is in process of construction by the town. The means of reaching the village seem to be ample, except that such roads are not railroads. There are a few summer residences upon the shores of Long Lake. It is proposed to reach Long Lake village from the terminus of the proposed railroad at the outlet of the lake, by navigating the lake. At present the only navigation of the lake appears to be by row boats, canoes and a single steam launch or tug. At times it is not navigable because of the logs in it, and it appears in the case that the launch or tug that navigates Long Lake could not run at the time when the petitioners were being heard before the Commissioners in August, 1895, and had not been run that season, the lake being unnavigable by reason of the quantity of logs in it.

Of course this obstruction to navigation will disappear, as the lumber in that region is exhausted, but so also will disappear one of the reasons given for the construction of this road, namely, the accommodation of the lumber trade.

It is needless to say that for a great part of the year navigation is suspended by reason of the lake being frozen.

The travel through this section, by which it is expected to support the road, is largely of tourists and lumbermen, and the freight business that is expected to be obtained, is that derived from carrying supplies to the lumber camps, summer hotels and for the transportation of lumber.

Evidence was given before the Commissioners of an iron mine and also of a water power, from which it was argued business might be derived in the future, and that the road would assist in developing both. The water power it appears is located some miles distant from the road, and has never been developed, but it is asserted could be used in the manufacture of lumber or of wood pulp.

The iron mine is also distant several miles from the road, it appears that it had been worked many years ago, but abandoned because of the character of the ore.

The question as to whether a proposed road will be self-supporting, is one proper to be considered upon its application for a certificate. It is difficult for me to see how a road commencing at a lumber camp and running through an unsettled wilderness to a point where there is not even a hamlet, the exit from, and the access to which, is closed up during a large portion of the year; which has no industries along its line, and but a sparse population, can be made self sustaining. The lumber interests spoken of, and

the business to be derived from the transportation of lumber and of lumbermen, and the carrying of freight to the lumber camps is largely dwelt upon, as one of the means of sustaining the road. Granting all that can be said in that respect, the fact still remains that that can be at best but a temporary source of business; it is part of the industrial and commercial history of the State that what is known as the Adirondack region has been largely stripped of merchantable timber, and what is left is rapidly disappearing, except that which is upon the Forest Preserve owned by the State, and which can not be parted with.

Indeed it appears in the evidence in this case, upon the part of the petitioners, that that particular portion of this region over which it is proposed to run this road, has been lumbered over and the soft timber taken off, and that there is now no lumber anywhere close by where the road is to be built, "except once in a while a hardwood tree."

The Adirondack wilderness has been the resort of tourists, and a place for the location of summer camps and residences, very largely because it is a wilderness; and it is difficult to see how this class of travel, and temporary residences, will be increased by the construction of railroads which tend to destroy the qualities and characteristics of the place that make it attractive.

For the summer hotel keepers, the small merchants, and the inhabitants of lumber camps, it is very likely that the building of this road would be convenient, but there is not sufficient evidence to show that there is any public necessity that requires it, or that there is sufficient business from the sources named to warrant us in believing that it would be a self sustaining road.

In addition it may be said that for some years it has been the policy of the State to preserve the Adirondack wilderness, and to restore it as far as possible to its former condition, and anything that interferes with that policy should not be encouraged by any department of the government. The building of railroads it seems to me must materially interfere with that policy, and the fact that certificates have already been issued to some companies, is no reason why the evil should be increased by granting them to others.

Without further discussion, suffice it to say, that it does not appear to me that the decision of the Commissioners was against the clear weight of the evidence, and it should therefore be affirmed.

I concur M. H. M.

Application for Exemption under the Provisions of Chapter 543, of the Laws of 1893.

POWER BRAKE ACT.

I.

IN THE MATTER OF THE APPLICATION OF THE NIAGARA JUNCTION
RAILWAY COMPANY FOR EXEMPTION UNDER THE PROVISIONS OF
CHAPTER 543 OF THE LAWS OF 1893.

August 26, 1896.

Application by the Niagara Junction Railway Company for an extension of time within which to equip 10 per cent. of all freight cars owned or operated by said company with continuous power or air brakes, having been made to this Board on or about August 3, 1896, upon reading and filing the affidavit of Edmund S. Wheeler, superintendent of said railroad, and it appearing therefrom that the public interests would not suffer from the granting of this application, it is

Ordered, That said application be granted, and the Niagara Junction Railway Company is hereby exempted from those provisions of section 2 of chapter 543 of the Laws of 1893 requiring the equipment of 10 per cent. of all freight cars owned or operated by it with continuous power or air brakes for each of the years 1896 and 1897.

II.

IN THE MATTER OF THE APPLICATION OF THE ULSTER AND DELAWARE
RAILROAD COMPANY FOR EXEMPTION UNDER THE PROVISIONS OF
CHAPTER 543 OF THE LAWS OF 1893.

August 27, 1896.

Application by the Ulster and Delaware Railroad Company for an extension of time within which to equip 10 per cent. of all

freight cars owned or operated by said company with continuous power or air brakes, having been made to this Board on or about August 25, 1896, after hearing Amos Van Etten for said application, and it appearing that the public interests would not suffer from the granting of this application, it is

Ordered, That said application be granted, and the Ulster and Delaware Railroad Company is hereby exempted from those provisions of section 2 of chapter 543 of the Laws of 1893, requiring the equipment of 10 per cent. of all freight cars owned or operated by it and used within this State, with continuous power or air brakes, for each of the years 1897 and 1898.

Applications for Approval of Cooking Stoves in Dining Cars under Section 51 of the Railroad Law.

I.

APPLICATION FOR APPROVAL OF COOKING RANGE UNDER SECTION 51 OF THE RAILROAD LAW.

November 15, 1895.

On October 26, 1895, an application was received from the United States Commission of Fish and Fisheries for permission to use a range for cooking and heating purposes in fish car No. 1 while in the State of New York. Plans of said range were submitted as required by the Board, and on November 15, the Board directed that a communication be sent to the applicants approving the style of range and fastenings described in the application and by the illustrated description accompanying the application.

INQUIRIES.

During the year a large number of inquiries, aggregating over 2,000 have been submitted to the Board, many of them involving questions of great importance, and frequently requiring extensive investigation. It has been the custom of the Board heretofore to select the principal ones, with the answers of the Board, for publication. The number, however, has so greatly increased and the subject-matter of many of them has been so frequently treated, that it is deemed unnecessary to repeat any of them in detail in this annual report. It would be impossible, considering the limits of this publication, to handle them in their entirety.

Reduction of Number of Shares of Stock.

I.

**IN THE MATTER OF THE APPLICATION OF THE AUBURN CITY RAILWAY
COMPANY FOR APPROVAL OF REDUCTION OF THE NUMBER OF SHARES
OF ITS CAPITAL STOCK.**

April 13, 1896.

On March 26, 1896, a communication was received by the Board from Messrs. Goodelle & Nottingham, attorneys for the Auburn City Railway Company, asking for the approval of the Board of the action of its stockholders in reducing the number of shares of the capital stock of said company of the par value of \$50, one-half, and making the par value of the new stock to be issued \$100. The matter was considered by the Board, and on April 13, a letter was written Messrs Goodelle & Nottingham, stating that: "After a careful examination of section 56 of the Stock Corporation Law, the Board has reached the conclusion that it has no jurisdiction and that its approval is not necessary."

CROSSINGS AT GRADE.

I.

IN THE MATTER OF THE APPLICATION OF THE LONG ISLAND RAILROAD COMPANY FOR PERMISSION TO CROSS THE TRACKS OF THE BROOKLYN, BATH AND WEST END RAILROAD COMPANY WITHOUT COMING TO A FULL STOP.

September 11, 1895.

This application was made on August 9, by the Long Island Railroad Company, and asked permission of the Board in behalf of said company to cross the tracks of the Brooklyn, Bath and West End Railroad Company at Bath Junction without first coming to a full stop, the crossing to be protected by gates and flagman. On September 11, by direction of the Board, a letter was written E. R. Reynolds, General Manager of the Long Island Railroad Company, stating that the Board would approve of the application if an interlocking switch and signal apparatus is put in operation at the crossing in accordance with section 36 of the Railroad Law. No further action was taken by the railroad company in the matter.

II.

IN THE MATTER OF THE APPLICATION OF THE STATEN ISLAND ELECTRIC RAILROAD COMPANY FOR THE CONSENT OF THE BOARD OF RAILROAD COMMISSIONERS TO CROSS THE TRACKS OF THE STATEN ISLAND RAPID TRANSIT RAILROAD COMPANY AT GRADE IN THE VILLAGE OF EDGEWATER, IN ACCORDANCE WITH SECTION 2 OF CHAPTER 239 OF THE LAWS OF 1893.

January 30, 1896.

The applicant, the Staten Island Electric Railroad Company, having presented its petition to this Board asking that the Board consent that said applicant may be allowed to lay its tracks at grade across the tracks of the Staten Island Rapid Transit Railroad Company at Edgewater, and it appearing upon the hearing

before the Board that the case is within the provisions of section 2 of chapter 239 of the Laws of 1893, and the applicant having submitted to the Board a proposed agreement and rule of operation between said applicant company and the Staten Island Rapid Transit Railroad Company stipulating on what terms and in what manner such crossing at grade shall be made, Julien T. Davies of counsel for the applicant appearing in favor and no one in opposition, and it appearing to the Board that the method of crossing as stated in said agreement and rule of operation is satisfactory, it is

Ordered, That the consent of the Board be given and it is hereby given to the applicant to lay its tracks at grade across the tracks of the Staten Island Rapid Transit Railroad in the village of Edgewater as proposed in said agreement and rule of operation.

III.

IN THE MATTER OF THE APPLICATION OF THE STATEN ISLAND ELECTRIC RAILROAD COMPANY FOR THE CONSENT OF THE BOARD OF RAILROAD COMMISSIONERS TO CROSS THE TRACKS OF THE STATEN ISLAND RAPID TRANSIT RAILROAD COMPANY AT GRADE IN THE VILLAGE OF PORT RICHMOND, IN ACCORDANCE WITH SECTION 2 OF CHAPTER 239 OF THE LAWS OF 1893.

January 30, 1896.

The applicant, the Staten Island Electric Railroad Company, having presented its petition to this Board asking that the Board consent that said applicant may be allowed to lay its tracks at grade across the tracks of the Staten Island Rapid Transit Railroad Company at Port Richmond, and it appearing upon the hearing before the Board that the case is within the provisions of section 2 of chapter 239 of the Laws of 1893, and the applicant having submitted to the Board a proposed agreement and rule of operation between said applicant company and the Staten Island Rapid Transit Railroad Company, stipulating on what terms and in what manner such crossing at grade shall be made, Julien T. Davies, Esq., of counsel for the applicant appearing in favor and Albert Reynaud of counsel for the Staten Island Midland Railroad Company appearing in opposition, and it appearing to the Board that the method of crossing as stated in said agreement and rule of operation is satisfactory, it is

Ordered, That the consent of the Board be given and it is hereby given to the applicant to lay its tracks at grade across the tracks of the Staten Island Rapid Transit Railroad in the village of Port Richmond as proposed in said agreement and rule of operation. This order, however, is without prejudice to any and all rights which may be possessed by said Staten Island Midland Railroad Company and the Port Richmond and Prohibition Park Electric Railroad Company in relation to the said crossing at Port Richmond.

CHANGE OF NAME.

I.

IN THE MATTER OF THE APPLICATION OF THE WATKINS AND HAVANA RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF ITS PETITION TO THE SUPREME COURT FOR A CHANGE OF NAME FROM THE WATKINS AND HAVANA RAILROAD COMPANY TO ELMIRA AND SENECA LAKE RAILWAY COMPANY, AND THE DESIGNATION OF NEWSPAPERS IN WHICH TO PUBLISH NOTICE OF PRESENTATION TO THE SUPREME COURT OF SAID PETITION.

April 6, 1896.

Ordered, That the said petition be and hereby is approved, and that publication be made in the *Watkins Democrat* and the *Evening Star* of Elmira in compliance with the provisions of section 2413 of the Code of Civil Procedure.

Cases Pending Before the Board of Railroad Commissioners, September 30, 1896.

APPLICATIONS FOR CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

Greenwich and Schuylerville Electric Railroad Company.

Brooklyn Bridge, Prospect Park and Eastern Railroad Company.

Columbia County Electric Railway Company.

COMPLAINTS.

E. D. Northup v. The Buffalo, Rochester and Pittsburg Railroad Company, in matter of train accommodations.

Residents of the village of Nunda v. The Western New York and Pennsylvania Railroad Company, in matter of proper railroad facilities.

B. K. White v. The Poughkeepsie and Eastern Railroad Company, in matter of drainage of land and repairs to culvert.

The Long Island Railroad Company v. The Brooklyn Heights Railroad Company, in matter of crossings.

The Long Island Railroad Company v. The Nassau Electric Railroad Company, in matter of operation of cars.

The Colonial City Traction Company v. The Ulster and Delaware Railroad Company, in matter of use of tracks.

ACCIDENTS.

I.

IN THE MATTER OF DERAILMENT OF TRAIN ON THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD, NEAR ROME, NOVEMBER 18, 1895.

November 19, 1895.

At about 4.19 a. m. on November 20, 1895, eastbound passenger train No. 6, known as the Fast Mail, on the New York Central and Hudson River Railroad, was derailed about two and one-quarter miles west of the passenger station at Rome. The engineer was killed and the fireman and other persons injured.

It appearing that the accident was caused by train wreckers, who were arrested, this Board did not further investigate the matter.

II.

IN THE MATTER OF DERAILMENT AND COLLISION AT PREBLE ON THE SYRACUSE, BINGHAMTON AND NEW YORK RAILROAD, DECEMBER 1, 1895.

December 5, 1895.

The Inspector of the Board made an investigation of the cause of this accident and reported that on the night of December 1, 1895, passenger train No. 8, on the Syracuse, Binghamton and New York Railroad, ran into an open switch at Preble and crashed into some cars standing on the siding. The engineer and fireman were killed. No one else was seriously injured.

Upon examination of the switch the conclusion was reached that it had been opened with criminal intent and blocked by inserting under the lever an iron equalizing rod and a piece of board. The lock was found broken and the hand lever bent. A reward of \$5,000 was offered by the company for the apprehension of the person or persons causing the wreck, but no arrests have been made.

III.

IN THE MATTER OF A COLLISION BETWEEN A FREIGHT TRAIN AND THE MONTREAL EXPRESS ON THE MOHAWK AND MALONE DIVISION OF THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD, NEAR HORSESHOE POND STATION, DECEMBER 20, 1895.

December 27, 1895.

On the morning of December 20, 1895, Engineer Hart, with engine No. 547, and freight train was given orders to run from Tupper's Lake Junction to Fulton Chain at a rate of speed not exceeding 20 miles per hour. The train left Tupper's Lake Junction at 2.55 a. m., passenger train No. 623, known as the Montreal Express, northbound was due at Horseshoe Pond station, where the freight train was expected to side track, at 3.56 a. m., thus allowing 56 minutes for the freight train to run 13.7 miles. Owing to slippery rails, heavy grades and inability to make steam, it became apparent when near Childwold station, 6.5 miles south of Tupper's Lake Junction that the freight train would not be able to reach Horseshoe Pond station in time. The conductor thereupon placed one of his brakemen on the engine and ordered the engineer to proceed with his engine southerly as far as it was safe, leave the brakeman to flag the approaching passenger train and then return with his engine to the freight train. In accordance with these instructions, the engineer proceeded toward Horseshoe Pond, near which point his engine collided with that of the Montreal Express, killing the engineers of both trains and Fireman Myers of the freight train, and seriously injuring Brakeman Gray of the freight train. An investigation of the accident was made by the Inspector of this Board, and from his report it appears that there was either gross negligence on the part of the conductor in not holding the engine at Childwold Station where there was a siding, or on the part of the engineer in miscalculating the distance and time on his southbound run to flag the approaching train.

IV.

IN THE MATTER OF A HEAD-ON COLLISION AT MACEDON SWAMP ON THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD, FEBRUARY 12, 1896.

February 16, 1896.

The following is the report of the Inspector of this Board relative to the above accident:

"In accordance with your instructions, your Inspector has investigated as to the cause of the head-on collision which occurred at about 12.30 a. m. on February 12th last, on track No. 3 of the New York Central and Hudson River Railroad, between Fairport and Macedon, and would report as follows: At Fairport, between tracks Nos. 3 and 4, is a center or passing siding some 2,000 feet long. At its easterly end the switches are cared for by those who in passing have to use them. At its westerly end is a telegraph office and the operator acts as switchman. The train book in the operator's office shows that upon the night of the 11th inst., at 11.10, train No. 543 past eastward, taking the center siding, because train No. 569 from Rochester was using track No. 4, opposite the center siding. This latter train delivers and receives West Shore cars at this point. Train No. 569 left Rochester at 10.35 p. m., arrived at Fairport at 11 p. m., finished its work of transferring six cars to the West Shore tracks and passed on eastward at 11.30 p. m. The book shows that nothing passed between 11.30 p. m. and 12.20 a. m., at which latter time No. 508 departed eastward, running by the signal which was set at danger through the switch in front of the operator's office and on to the center siding, from which it passed on to track three at the east end of the siding and continued eastward upon track No. 3 about three and one-half miles to near block tower No. 20, where it collided with train No. 552 westbound.

"The engineer, Thomas Welch, Fireman Wood and Head Brakeman D. E. Wilson (train 508) were killed. This train consisted of 25 cars and a caboose, and was loaded principally with stock. Nineteen cars remained upon the track. A number of the animals were killed. The westbound train consisted of 19 cars, the majority being empty. Fireman Frederick Hosford was killed. Engineman, W. L. Phillips, was injured, also Head Brakeman William Guldenschule. The collision occurred upon a tangent and on a grade slightly descending westerly. Your Inspector in conclusion can only say that in his opinion, negligent and gross carelessness upon the part of all on board train No. 508, was the direct cause of the collision."

This report was forwarded to the company and the following reply received:

"There is no general rule governing the matter of center sidings, either at Fairport or on any other point on the line. The telegraph operator is located near this switch and is expected to open and close it for the pusher which is used at this point to cross between tracks 3 and 4. The switch is one of the Buchanan-Toucey interlocking plants for which a signal has to be set (in this case it was about 1,200 feet distant from the switch) before the switch can be turned. The conductor of extra 569, while leaving part of his

train on track 4, going over in the West Shore yard, arranged with the operator to set the signal and turn the switch, thereby protecting his train while on the main track. The operator became interested, first, in telegraphing and then in reading a book, and forgot that the switch was open and the signal set. To this extent he is censurable and has been dismissed. This, of course, does not excuse the conductor, engineer or crew from not knowing they had passed this signal and run through the center siding and four and a half miles on No. 3, where the accident occurred. The conductor and brakeman, who were in the caboose at the time, have also been discharged."

V.

IN THE MATTER OF COLLISION BETWEEN TWO FREIGHT TRAINS ON THE
NEW YORK CENTRAL AND HUDSON RIVER RAILROAD, AT AMSTER-
DAM, FEBRUARY 26, 1896, AT 8 O'CLOCK, P. M.

March 14, 1896.

Report of F. K. Baxter, Inspector of the Board, relative to accident at Amsterdam, February 26:

Upon the evening in question freight train No. 636 was proceeding on its way westward with orders to run on track No. 2 from Karners (east of Amsterdam) to Schuyler's Junction, a considerable distance west of Amsterdam.

At 7.45 p. m. the night operator at Amsterdam station received orders for train No. 530 to run on track No. 2 from Amsterdam to Schuyler's Junction. From information obtained by your Inspector, the night operator, instead of holding the order in his office until called for by the engineman and conductor of train No. 530 (as per rule No. 511, Book of Rules), stepped to the door or crossed over and handed the order to the stationman, whose shanty is located immediately south and opposite the station, telling him to pass the train on to track No. 2, and hand the order to the proper persons, or words to that effect. The stationman thereupon proceeded to flag train 530, which was approaching from the east on track No. 3, and open the switch leading upon track No. 2. Switch "A" was opened and train No. 530 began its passage from No. 3 to 2. The stationman, as he ran westward to open the switch on No. 2, saw train No. 636 approaching from the east. He gave a sharp back-up signal to the engineman of train No. 530, who immediately reversed the movement of his engine, but not soon enough to escape the engine of train No. 636, which was running at perhaps 25 to 30 miles per hour. Engine 636 struck en-

gine 530 at about its pilot, left the track and ran over the ties nearly 300 feet, or to a point opposite the station before it stopped. Train No. 636 consisted of about 30 or 35 empty cars, mostly open coal cars, some 19 of them being badly wrecked and piled about, owing to the collision and change of direction. The only person injured was the fireman of engine No. 530, whose injuries were not considered serious. The stationman informed your Inspector that he signaled the towerman (when he was handed the order), but received no reply. Mr. Harrington informed your Inspector that the stationman did not signal the towerman at all, as the rules require. The stationman, when he received orders to pass train 530 out on to track No. 2, should first have signaled the towerman to be positive that there was no approaching train on track No. 2, and should not have allowed train 530 on track No. 2 until allowed to do so by signal from the towerman. Had the night operator, engineman and conductor of train 530, and the stationman (in this particular instance) followed rule No. 511, the accident would have been avoided, for then the stationman, upon the order of the night operator, would have brought train 530 to a standstill on track 3. The engineman and conductor of this train would have entered the night operator's office and received from his hands the orders as above. This short delay would have allowed train No. 636 to pass safely on its westward course, and if the towerman had been properly signaled train 530 would have been held in any event on track 3 until train 636 had passed the station. The stationman was certainly to blame for touching a switch or allowing train 530 to move until he had received a signal from the towerman that track No. 2 was clear. If he signaled and the towerman did not answer he should have continued to call or signal until an answer was given. Mr. Harrington says the stationman did not attempt to signal the towerman until after he had opened the switch leading from No. 3 track, and that it was then, and while he was on his way to his shanty to signal the towerman, that he saw the train approaching on track No. 2. The night operator was to blame for giving the order to the stationman. The engineman of train 530 was to blame for taking the order from the stationman. The stationman was to blame for taking the order from the night operator. The brakeman on train 530 was to blame for taking the copy of the order handed him by the stationman. The stationman was in error in handing the copy to the brakeman.

The train dispatcher who issued the orders for train No. 530 might (knowing 530 and train 636 would be at Amsterdam about the same time) have taken extra precautions, and notified the operator to look out for 636. Mr. Harrington informed your Inspector that while the above precaution might have been taken,

the fact that the switch should not be opened without a safe signal from the towerman was amply positive.

A copy of this report was forwarded the company, with a request for information as to action taken relative to said accident, and the following reply received:

NEW YORK, *March 25, 1896.*

"Answering your inquiry of the 23d, as to action taken in the matter of wreck at Amsterdam on February 26, in the first place, the operator was at fault for not following rule 511, in which he is not to deliver the order to the persons addressed without taking their signatures. This is what is known as a 19 order. The operator has been disciplined. The switchman has been discharged for gross carelessness. There is a station signal at this point governing track 2, which is displayed some 2,000 feet from the station. The switchman's first duty was to set this signal at danger. He failed to do this until he had turned the switches. He should have ascertained from tower 13, by a bell code, if there was anything coming on track 2 which would have interfered with the crossing of N. W. 3 from track 3 to track 2. This he did not do. The engineer was disciplined for the reason of having the order in his hands, as, knowing, the rules, he should not have crossed on to track 2 until satisfied it was safe to do so."

VI.

IN THE MATTER OF THE DERAILMENT OF ENGINE NO. 76 ON THE HARLEM RIVER AND PORTCHESTER BRANCH OF THE NEW YORK, NEW HAVEN AND HARTFORD RAILROAD, NEAR ONE HUNDRED AND THIRTY-THIRD STREET, NEW YORK CITY, ON DECEMBER 8, 1895.

March 24, 1896.

It appears from the statements of officials of the company and others, that on this date, about 1.08 a. m., the crew of switch engine No. 76 received orders to run light from the Harlem river yard to Van Nest station to get some empty cars, the speed between the points named not to exceed 25 miles an hour; that when rounding the curve at One Hundred and Thirty-third street crossing, about 2.15 a. m., the engine left the rails, run along on the ties about 160 feet then passed over the westbound track and turned on its side down an embankment, killing Thomas Fitzgerald, engineer, Thomas P. Nally and Fred. S. Maples, brakemen, seriously injuring T. J. Bannon, conductor, and slightly injuring John H. Tuite, brakeman.

On December 11 an examination of the locality and of the wrecked locomotive was made by a member of this Board. The first evidence of derailment was noticed on a plank at the One Hundred and Thirty-third street crossing on the eastbound track; the marks extended along the ties getting nearer to the left rail to a point about 160 feet east, where the engine ran over to the westbound track, threw out the rails, bunched the ties and plunged over and turned on its right side in the ballast of the westbound track.

At the point of derailment there is a curve of about six degrees, with proper elevation. Several new ties had been put in in place of those damaged by the derailment. The ties taken out were examined and found in good condition, except as to the damage done by the derailed locomotive. The track is composed of 80-pounds rail at this point, which were found in good condition.

Trains are scheduled to pass over this portion of the track at different rates of speed designated on the general time table by letter; all other trains or engines by special orders. The order given to the crew of engine No. 76 on this date was not to exceed a speed of 25 miles an hour from Harlem river yard to Van Nest.

Engine No. 76 was built in 1894; it had a wheel base of 10 feet; the weight on drivers was 90,400 pounds. It was turned out of the shops December 5, 1895, after having had general repairs. A careful examination of all of its parts failed to show any defect that might have caused this accident.

From the facts that the track and engine were in first class condition; that the engine after leaving the rails ran on the ties 160 feet, then over and on to the westbound track, throwing out and bending the rails, bunching the ties, and plunging down the embankment and plowing into the ballast, it is evident that this accident was caused by excessive speed on the curve.

VII.

IN THE MATTER OF A HEAD-ON COLLISION ON THE MANHATTAN RAILWAY, NEAR ONE HUNDRED AND NINTH STREET, NEW YORK CITY, ON MARCH 21, 1896.

April 21, 1896.

The facts and circumstances attending this accident, as developed from an examination of the locality and statements of officers and employes of the company, are as follows:

F. K. Hain, general manager, states that on Saturday, March 21, as the 2 p. m. southbound matinee and shopping express, from

One Hundred and Fifty-fifth street and Eighth avenue, drawn by engine No. 225, reached a point just north of One Hundred and Ninth street and Ninth avenue, on the center track, it collided with light engine No. 121, going north on the same track, damaging considerably both engines, and only slightly the first and second coaches of the five cars drawn by engine No. 225. Not a passenger was injured. The engineers of both engines were slightly injured, as well as the fireman of No. 121; the fireman of No. 225 escaped unhurt.

Engine No. 225, with the express, which enters the center track at One Hundred and Sixteenth street and turns into the southbound track just north of Thirty-first street station, had the right of way, and with several other trains, designated as matinee and shopping expresses, runs daily, except during the summer months and Sundays, throughout the year. On the Ninth avenue line during the middle of the day, our local trains are run between Fifty-ninth street and South Ferry, and during the busy morning and evening hours, between One Hundred and Thirty-fifth street and Rector street and South Ferry. On every day except Saturday the last Ninth avenue train is turned at Fifty-ninth street and Ninth avenue at 3.29 p. m., and the engine that brings this train up then proceeds to One Hundred and Thirty-fifth street via the center track to One Hundred and Sixteenth street and thence on the northbound track to its destination, where it goes into regular service again by taking a Ninth avenue train south from One Hundred and Thirty-fifth street. The last matinee and shopping express clears the center track every day at 2.11 p. m. On Saturdays on account of the busy hours beginning earlier than on week days, the last Ninth avenue train turned at Fifty-ninth street, is at 2.01 p. m. The engine of this train then proceeds on the northbound track to One Hundred and Thirty-fifth street to go into regular service as on other days. This engine is cut loose from the Ninth avenue train as it stands on the center track, between Sixtieth and Sixty-first streets, and on Saturdays runs north to Sixty-first street on the center track, backs through the switch leading from the center to the northbound track, and then proceeds on the northbound main line track to One Hundred and Thirty-fifth street. On Saturday the 21st inst. as soon as engine No. 121 was cut loose from this train, the engineer instead of going to Sixty-first street and backing down through the switch to the northbound track proceeded all the way up the center track with the intention of taking the main line at One Hundred and Sixteenth street, and collided with the southbound express as above.

The train despatchers at the points where they are located, are responsible for all trains and engines leaving those points, and must see that they have proper orders. The train despatcher at

Fifty-ninth street, assumed that the engineer of engine No. 121 understood this matter of backing out of center to the northbound main line track, and hence the collision.

Engineer Schroeder, of engine No. 121, says that after his arrival at Fifty-ninth street he said to Despatcher Smith that "I go light on center track." Smith admits that Schroeder said to him that he would "go light" but says that nothing was said as to "center track." The fireman verifies Smith's statement, by saying that he did not hear the engineer say anything about the center track.

This center track is used absolutely at certain times of day for service in one direction only. On every day in the week except Saturday the last Ninth avenue train is turned at 3.29 p. m., but on Saturday it is turned out at 2.01 p. m.; in the former case the engine goes light to One Hundred and Sixteenth street on the center track and there takes the northbound track to One Hundred and Thirty-fifth street; in the latter case the engine proceeds on the northbound track to One Hundred and Thirty-fifth street.

Rule 143 of the Manhattan Railway is that no train or engine shall ever run at a rate of speed exceeding six miles an hour rounding curves. Rule 150 says that "enginemen must run slowly around all important curves; must reduce speed before reaching curve." Rule 267 says that "When an engine is running over any portion of the road without a conductor, the engineer thereof will be regarded as conductor and will act accordingly."

The tracks on this road are known as east or "up track" and west or "down track." If Despatcher Smith had given the correct order to "go light on up track," it was his duty to positively and personally know that his order was obeyed, and if Schroeder violated it in proceeding on the center track, Smith should have notified the agent at the next station north to stop him. It was clearly Smith's duty to know that the regular train on the center track had a clear line beyond a possibility of doubt, under rule No. 282, and also in view of the general instructions to all employees, viz.: "In case of doubt take the safe side." Smith had no right to assume anything. His duty was to know. He had no right to assume that the engineer's understanding was right, and for this failure the Board believes he is primarily responsible for the accident.

The fact that this center track is used every day in the week except Saturday by engines turning at Fifty-ninth street and Ninth avenue after 3.29 p. m., to One Hundred and Sixteenth street, and this was Schroeder's first Saturday in service at this point, may slightly excuse him, but in view of his experience and the general rules and practice of the company, the Board believes

that he was at fault in not knowing he was right before starting and for violating rule 143.

In view of the fact that there is a different mode of procedure to One Hundred and Thirty-fifth street by engines turning at Fifty-ninth street and Ninth avenue on Saturday from other days in the week, the Board recommends that all engines turned at Fifty-ninth street and Ninth avenue on Saturday have written orders.

VIII.

IN THE MATTER OF AN ACCIDENT AT WALLINGTON STATION ON THE ROME, WATERTOWN AND OGDENSBURG RAILROAD, DECEMBER 19, 1895, IN WHICH VIRGIL P. DOUGLASS, BRAKEMAN, WAS BADLY INJURED, DYING THREE DAYS LATER.

May 11, 1896.

From the investigation of this accident made by the Board, it appears that on December 19, 1895, about 1.30 a. m., a Rome, Watertown and Ogdensburg Railroad freight train, bound west, drawn by engine No. 673, in charge of Conductor Somers, and with Brakemen Douglass and Frisbie, stopped at Wallington to leave a car to be placed on a Y that is used in common by the Rome, Watertown and Ogdensburg and the Northern Central Railroads, which cross at this point. While the engine was moving to the Y, with the car to be placed on it, Brakeman Douglass, who was leaning from the side of the car, was struck by a car which was standing on the Y and badly injured. He died three days later. The statement of Conductor Somers in regard to the accident is as follows:

"Flagman Douglass had his lantern on his arm and was hanging on the side of the car, one foot on the stirrup, and hanging on to the grab iron with hands.

"N. C. car 14308 was standing on the delivery Y where we were to put the car. It would clear the passing track O. K. but, as Mr. Douglass was hanging from the car, it would not clear him. It was pretty dark at the time and Mr. Douglass evidently did not see the car which stood on the delivery track close to the passing track switch and which struck him, throwing him to the ground.

"The accident happened about 1.30 a. m. I was on the engine standing on the steps, hanging on to the grab-irons of the engine, at the time the accident happened. I was about a car length from where Douglass fell.

"Engine 673 was moving very slowly, and as soon as I heard the lantern which Douglass had on his arm crack, I knew something was wrong, and about the same time Brakeman Frisbie ran up, and I said to him, 'where is Douglass,' and he answered me that he thought he was killed.

"My engine, 673, stopped immediately, and we found Mr. Douglass lying on the ground crosswise the delivery track about five feet from this N. C. car 14,308, which stood on the delivery track.

"I had instructed Mr. Douglass and also Mr. Frisbie before arriving at Wallington as to car we had for delivery to the N. C. Railway, so that the men understood what was to be done. On account of delivery track leading in from the east, it is customary to fly cars standing on the delivery Y.

"We nearly always find cars standing on the Northern Central delivery track, and usually have to nose in with our engine and shove them up so as to make room to drop cars which we have for delivery.

"I stood on the engine step on the south side for the purpose of looking to see how the cars stood on the Y, when I heard Douglass' lamp crack.

"Both of my men, Douglass and Frisbie, went with the engine and car, and to passing track switch. Douglass threw the switch. Mr. Douglass was hanging on the side of car, rear end, and Brakeman Frisbie hanging on in same way on the forward end of the car. Brakeman Frisbie heard the lantern break and swung in and saved himself."

O. M. Bowman, conductor of a Northern Central Railroad freight train, which had used this Y earlier in the night, states that when he was through with the work of his train, he went back on the Y to see that cars, other than those with which he had to do, were not moved, and that he was sure such cars were not moved nearer to the passing point. The crew of a Rome, Watertown and Ogdensburg train, which also left cars on the Y previous to Conductor Somers' train, state that the brakes of the cars left by them were properly set and that there was ample clearance room.

The statements of Conductor Somers that the car standing on the Y "would clear the passing track O. K.," and of Conductor Bowman of the Northern Central, that he was sure that in doing the work of his train the cars left on the Y were not moved nearer to the passing point, lead to the conclusion that there was sufficient clearance, and it seems to the Board that had Douglass not been leaning outward from the car on which he was, the accident would not have occurred.

Without reference to this accident, the Board takes cognizance of the fact that this Y is used by both the Northern Central and

the Rome, Watertown and Ogdensburg Railroads to a large extent, and recommends that a derailing device be placed at each end, at a safe clearing distance, so that a car would be derailed before it could foul the passing points.

IX.

IN THE MATTER OF THE EXPLOSION OF THE BOILER OF LOCOMOTIVE NO. 4 OF THE DELAWARE, LACKAWANNA AND WESTERN RAILROAD COMPANY, ABOUT THREE MILES SOUTH OF RICHFIELD JUNCTION, ON FEBRUARY 19, AT 11.37 A. M.

June 11, 1896.

The facts and circumstances in connection with this explosion, as developed by testimony, statements of officials and employes, and by an examination of several parts of the exploded boiler, and from a test of portions of the firebox and stays selected by a member of this Board, made by Professor Palmer C. Ricketts of the Rensselaer Polytechnic Institute, are as follows:

On February 19, 1896, passenger train No. 6, southbound, drawn by engine No. 4, left Utica at 10.30 a. m. in charge of D. S. Hall, conductor, and John H. Keach, engineer. When it arrived at a point about three miles south of Richfield Junction the boiler of the engine exploded, killing the engineer and John I. Lewis, the fireman.

At the coroner's inquest, Thomas H. Thatcher, master mechanic of the company, testified that "the engine and boiler were examined less than two months before the accident; that the crown sheet and side sheets were bare, the stay-bolts were exposed to the fire in this condition and became red hot; where they were not in this state they showed a clear break; very little water had been used out of the tender, and the cause of the explosion was lack of water in boiler."

A. C. Saulsbury, superintendent of the division, testified: "Will use a strong expression — the boiler was about ready to melt from heat and had lost all its tensile strength; the great wonder is that this accident did not occur earlier. I think, as a theory, that the boiler was in that condition when the engine left the junction."

From an examination made soon after the accident it appears that the boiler was a culm-burner, and was constructed at the shops of the Delaware, Lackawanna and Western Railroad Company, at Utica; that the sheets were of Lukens steel of the following dimensions: Crown sheet and fire-box sheets, three-eighths

inches thick; outside fire-box sheets, seven-sixteenths inches thick; throat sheet, seven-sixteenths inches thick; dome course of cylinder part of boiler, one-half inch thick; dome sheets, seven-sixteenths inches thick; stiffening plates, one-half inch thick; other courses of cylinder part of boiler, seven-sixteenths inches; flue sheets, one-half inch thick; stay-bolts in crown sheet, fifteen-sixteenths inches in diameter; all other boiler rivets, three-quarter inch; all circumferential welt pieces, three-eighths inches thick; all braces, one and one-third inches diameter of best stay-bolt iron; all jaws on braces and sling stays five-eighths inches square rivet iron; flues, 12 feet 6 inches long. The crown sheet was supported by stays spaced four and one-half inches from centers. Three gauge cocks and a water-glass were located on cylinder part of boiler, the lowest cock set five inches above the top of the crown sheet. No gauge cocks or water-glass were attached to the boiler head.

The crown sheet was wrenched from the stays and twisted and torn; the side sheets of the fire-box were fractured and ripped apart nearly to the mud ring. The entire crown sheet and the side sheets down to about 12 inches from the bottom of the fire-box showed unmistakable evidence of having been blue hot. The outside sheet of the fire-box on the right side bulged outward about three inches. The radial stays were discolored above crown sheet, as were the side sheet stays, down to about 12 inches from the mud ring; the flues were collapsed also to this point.

A duplicate of this boiler, in the erecting shop, was also examined and the manner and material of construction above given was verified. The construction in all of its details as to workmanship and material is commended as first class.

A radial stay and two pieces of the side sheets of the wrecked boiler were selected and sent to Prof. Ricketts for test as to quality, with the following results: The radial stay of crown sheet, turned down to nine-sixteenths of an inch showed an elastic limit of 29,300 pounds, breaking weight of 47,900 pounds and elongation of 22.5 in eight inches. The piece of plate that was burned broke off at the end at 56,000 pounds. Of the piece of plate not burned the elastic limit was 42,000 pounds, breaking weight 58,830 pounds. These tests show that the material used in construction was of excellent quality.

It appears that a stop of four minutes was made at the junction, and, as previously stated, the train had passed on about three miles, when the explosion occurred. The engineer was seen to make a motion to a person at the crossing, indicating that just prior to the accident he was in possession of his faculties. That the water in the boiler had gone down to the very low point indicated on the sheets is evidence that when the stop was made at

the junction it was low in the boiler, for had there been a proper supply it could not have been so nearly used in running such a short distance. All this leads to the conclusion that the cause of this explosion was lack of water in the boiler.

Of the explosions of locomotive boilers which have taken place in this State in several years past many of them have been of boilers with crown sheets supported by radial stays. While there have been explosions of boilers where the fireboxes have been constructed with crown bars and rivets, the complete destruction of fireboxes in the former type were absent in the latter. Much has been said and more may be said as to the respective merits of crown bars and radial stays in such construction. The Board believes that this is a subject which should receive the earnest consideration of all persons engaged in boiler construction, even to a greater extent than now.

The Board recommends that gauge-cocks or water-glass be placed on the boiler head of all culm burning locomotives at present without them.

That a speaking-tube, or some other mode of rapid communication be constructed on locomotives of that construction to enable engineers and firemen to quickly understand each other while running.

That all locomotive boilers be examined at least once each month; that all stay bolts that can be reached be tested carefully by a person accustomed to such work, and that a record be kept as to the condition of each boiler.

X.

IN THE MATTER OF AN ACCIDENT OCCURRING TO CAR NO. 719 OF THE NASSAU ELECTRIC RAILROAD COMPANY ON THIRTY-NINTH STREET, BROOKLYN, ON SUNDAY, JUNE 7, 1896.

June 30, 1896.

On Sunday, June 7, 1896, at about 4 o'clock in the afternoon, while car No. 719 of the Nassau Electric Railroad Company was ascending the hill on Thirty-ninth street in the city of Brooklyn, between Fifth and Sixth avenues, the trolley pole became detached from the wire. The car immediately began backing down the hill. The efforts of the motorman to stop it were ineffectual, and with rapidly increasing speed it descended the heavy grade (from six to nine per cent. between Fifth and Sixth avenues), crossed Fifth avenue and finally jumped the track at the reverse

curve and grooved rail just beyond Third avenue. It ran over the pavement a distance of several hundred feet and was finally stopped near the curb on the north side of the track. According to evidence adduced at the coroner's inquests the car had 133 passengers on board, and when it became apparent that the car was beyond control, 30 to 40 of them, as sworn to by witnesses to the accident, jumped to the pavement. One passenger, a boy, was instantly killed, and another, a woman, died in the hospital several days after the accident. In addition to these fatalities a number of passengers were more or less injured. Two coroner's inquests were held, at which members of the Board were present, by whom also a personal inspection of the scene of the accident and cars similar to No. 719 was made.

The verdicts in the coroner's inquests censured the railroad company for permitting the cars to be overcrowded, "thus preventing motormen and conductors from properly discharging their duties."

The car, an open one, was comparatively new, with a seating capacity of not more than 60, including the seat in rear of the motorman on the front platform. In order to get 133 people on a car of this size it would be necessary not only to crowd the aisles and the front and rear platforms but also the steps on both sides of the car, and the evidence of the conductor in this case was to the effect that both steps were so crowded that it was impossible for him to get back to the rear platform. He also testified that he was pushed off the car after it started going down hill by people jumping from it.

The dangers from overcrowding are too obvious to require much explanation. The most serious is interference with employes. Little less important, however, where cars are run so frequently as upon this line, is the possibility of the excessive weight overtaxing the power, and that the railroad officials feared such a contingency is shown by a prohibition against more than one car ascending the Thirty-ninth street hill at the same time. The presence of men along the hill with so inadequate a safeguard as a board to throw in front of a runaway car is also indicative of the fact that this part of the route of the Nassau railroad upon which overcrowded cars were permitted was regarded as especially dangerous by the company, and that ordinary operating safeguards were not a sufficient protection. Since the accident the company has placed six derailing switches upon this hill.

The evidence regarding the condition of the car shows that on the trip prior to this, the trolley pole had been out of order; that attention had been called to that fact, and that it was put in what was assumed to be proper condition, and that on leaving the car-house and on the way to the ferry the brakes "were all right."

Thereafter, and on the way from the ferry toward the car-house, it appears from the evidence of the motorman that the brakes did not act in a satisfactory manner, or at least did not hold the car when applied, and that he then called the attention of Inspector Williamson, who boarded the car, to that fact. He further stated that he was not positive that the difficulty was with the brake, but with what is known as a greasy rail. Inspector Williamson, who saw the brake in operation, testified that he could tell from the way the car stopped that the brake was in proper condition. The motorman testified that at the car-house he informed Inspector Harden the car had "a bum pole and a mean brake on a greasy rail," to which he says the inspector replied, "Oh, go along; we will make a car especially for you." The motorman, White, also testified that before starting out on the fatal trip, he was told by one of the crew who had been on the car before it was turned over to him, that there was something the matter with the pole, "that the pole was in such bad shape it would have to be fixed or the conductor could not get his fares." It was fixed, as above stated, the time required, according to White, being about a "minute or so;" and he also said that after leaving the ferry "the pole began acting bad again and came off the wire at crossings, switches and curves a number of times before reaching Thirty-ninth street. The officers of the company testified that the car was inspected after the accident and was found to be all right, except that one of the wheels was broken going over the pavement.

A trolley pole in good condition, with properly constructed span wires, should not leave the wire on a straight track, and it was suggested that the pole was pulled from the wire either accidentally or intentionally by some one on the rear platform. There was no evidence on this point, nor was there any satisfactory evidence adduced regarding the condition of the trolley pole before starting on the trip.

The car was properly equipped with a guard on the side next to the adjoining track to prevent the ingress and egress of passengers upon that side, and also with a step fastened to the car by hinges, so that it could be turned up against the side of the car, but this step, if up when the car started, was forced down by passengers before the accident occurred, for, as testified to by the conductor, a number of passengers were standing upon both steps.

While the immediate cause of this accident was the trolley wheel leaving the wire, the Board is of the opinion that the primary cause was the overcrowded condition of the car, whereby the conductor was prevented from reaching the rear platform in order to replace the trolley wheel or assist the motorman in applying the brakes. The officers of the company claimed that the motor-

man did not first apply the hand brake but tried to stop the car by using the motors, and that while making this attempt he reversed the power, thus adding to the speed of the car in its descent of the hill and thereby contributing to the accident. The Board finds that the evidence does not substantiate this claim. On the contrary all the evidence adduced at the inquest goes to show that as soon as the trolley wheel left the wire, the motorman applied the hand brake, as he should have done, and that for some reason unexplained, unless on account of overloading, the brake did not hold the car. The motorman then endeavored to stop the car with the motors and at some point on the way down the hill, the precise point the Board is unable to determine, he did reverse the power, but such act in no way contributed to the accident.

The Board has repeatedly recommended that passengers be prohibited from riding on the front platform of any electric or cable car, and in granting permission to operate by electricity or cable, this condition has been made a part of the order of the Board. This recommendation was made with the knowledge that on some open cars there is a seat on each end facing the end of the car, and that the prohibition would keep passengers from occupying this seat on the front platform. Since then, however, larger cars have been constructed, with more space on the platforms, and if the number allowed on the front platform of an open car is limited to the number that can be comfortably seated, say five, on the cars of the Nassau line, the motorman would not be interfered with. The Board, therefore, modifies its previous recommendation to this extent, recommending that not more than five persons be allowed on the front platform of the large open cars of the Nassau Company, or of any other company operating cars similar in size and construction; that these persons be required to be seated, and that when the limit is reached, the motorman be instructed to close both gates of the front platform.

This is not intended as any modification of the previous recommendation of the Board so far as closed cars are concerned.

It is further recommended that on all lines of electric or cable railroads in this State passengers be absolutely prohibited from riding on the running boards or side steps of open cars, and that cars be not allowed to proceed so long as persons are standing upon either of these steps, and refuse to get off the car or stand in one of the aisles.

The Board approves the Brooklyn city ordinance designed to prevent the overcrowding of cars, which prohibits "any car from carrying a greater number of passengers than half as many more than can be seated," providing this number can be carried without crowding the front platform beyond the limit above specified, or permitting persons to stand on the running boards or side steps,

and recommends that when overcrowding is attempted by the public, the conductor be directed to refuse to proceed until the load is reduced to the lawful number, invoking police assistance, if necessary, to enforce the law.

All cars operated on a grade of five per cent., or more, should be equipped with an auxiliary brake, or with some appliance which may be used by the conductor or motorman in stopping the car. A simple device used by the Albany Railway Company on the State street hill in the city of Albany, where the grade is even greater than on Thirty-ninth street, Brooklyn, is a so-called "dog" attached to a chain running up through the rear platform of the car, by which it is held up when not in use. This is always dropped by the conductor before ascending the hill, and materially aids in holding the car when a stop is made. The board recommends that this or some similar device be placed on all electric cars in the State used upon streets whereon the grade is greater than five per cent., and also, in this connection calls the attention of street railroad managers to the new auxiliary brake on the new cars of the Third avenue cable line in New York city. Steam railroads equipped with air brakes still retain the old hand brake, to be used in case of emergency. It is much more important that electric and cable cars operated upon heavy grades have duplicate brake equipment even in addition to the electrical appliances which seems to require men of more skill to manipulate than are usually employed.

The Board further recommends that when ascending grades of five per cent. or more, conductors be directed to remain on the rear platform prepared to protect the trolley pole or assist in applying the brakes in cases of emergency.

The Board also recommends that the brakes and trolley pole apparatus on all electric cars be carefully examined after each round trip, and censures Inspector Hardin of the Nassau company for not having made a thorough examination of car No. 719 when the motorman, White, reported it in bad condition. The rule in force on railroads of this State where safety in operation is the first consideration, is to immediately return cars to the car house for inspection and repair when reported in bad condition by a conductor or motorman.

It is ordered, That these recommendations, so far as applicable, be directed to all of the electric and cable railroad corporations of this State.

XI.

IN THE MATTER OF AN ACCIDENT AT CROSSING ONE MILE WEST OF SOUTH SCHENECTADY, ON THE WEST SHORE RAILROAD, JANUARY 29, 1896. IN WHICH MRS. D. W. WALPOLE WAS KILLED.

July 16, 1896.

On June 20, 1896, at 2.55 p. m., a single carriage occupied by Mrs. D. W. Walpole and her daughter, Grace Walpole, while crossing the tracks of the West Shore Railroad, about one mile west of South Schenectady, was struck by east-bound freight train No. 82. Mrs. Walpole was killed.

Alexander Riley, engineer, testified that his train was between 400 and 500 feet west of the crossing, moving at a speed of about 15 miles an hour, when he first saw the carriage, and that the whistle and bell were sounded and everything possible done to attract the attention of its occupants.

The crossing is nearly at right-angles with the railroad. For a distance on the highway of several hundred feet from it trains approaching from the west a half a mile away may be seen. About 60 feet from it the roadbed is in plain view.

This accident would probably have been avoided if proper care had been exercised by those in the carriage in approaching the crossing. While there is danger at all grade crossings, this one is at least as safe as the ordinary.

XII.

IN THE MATTER OF THE EXPLOSION OF THE BOILER OF ENGINE NO. 705, ON THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD, AT UTICA, JUNE 23, 1896.

October 19, 1896.

The facts and circumstances attending this accident are substantially as follows:

On June 23, freight engine No. 705 on the New York Central and Hudson River Railroad, at Utica, in charge of Frank Markhart, engineer, and C. H. Angus, fireman, was backing its train on a side track. When at a point near the Park avenue crossing, the boiler of the engine exploded, killing the fireman instantly and fatally injuring the engineer. An examination made soon after the accident, showed that the fire-box sheets were torn and twisted in many shapes; the crown bars were intact as to fastening on crown sheet, excepting

two on the right forward end, which were raised from the sheet several inches; between these crown bars at this point the crown sheet was torn down and into the side sheet. All portions of the crown sheet were free from scale. At the left top corner of the fire-box three stay bolts were broken. Several plugs were found in the flues in the back end. The sheets all showed good life and normal thickness except at the mud ring, where the side sheets were a trifle thinner, a condition that is found in all fire-boxes. The boiler shell was constructed of Carnegie steel; the fire-box of open hearth Spang steel of the latest approved thickness in the several sheets. The fire-box ring was double riveted.

The engine was built at the Schenectady Locomotive Works, December 8, 1891, and was equipped with two safety valves set at 150 and 155 pounds pressure. It was in the repair shop on July 20, 1895, and received a full set of flues and general repairs, and at that time was carefully examined and tested in every part in conformity with the printed rules of the company. The rules of the company provide that a daily record must be kept of the condition of each engine, which record, with the engineer's report of repairs necessary, is kept on file, and about once a month, when the boilers are washed out, the stays are tested. These rules are strictly observed. On June 22, David Ingles, at that time in charge of engine No. 705, reported on the blank furnished that but one item needed attention, viz., the packing in the driving boxes.

Tests were made of the steel used in the fire-box of this engine, which showed the tensile strength of the crown sheet to be 55,170 pounds, side sheets, 54,640 pounds, and 38 per cent. elongation in 2 inches. The engine was in service on local freight trains between Albany and Utica, making about 100 miles a day, six days in the week, which is about one-half the mileage of engines used in through service. The soft water of the Mohawk valley was used, which would account for the absence of scale on a crown sheet in service one year, as in this case. Expert evidence as to the strength of the material and the construction of the fire-box of the engine, is to the effect that even if the staybolts were 8-inch centers, instead of 4-inch, as they were, and with a maximum steam pressure of 155 pounds, that there would still have been a margin of safety of 8 per cent. The fact that the raised crown bars on crown sheet were in the opposite corner from where the three staybolts were broken, the sheet not being disturbed, seems to verify this evidence.

The evidence shows that steam was freely escaping from the safety valves of the engine just before the explosion occurred, which shows that they were in proper condition.

The first class construction of this boiler, and the absence of any indication of the cause of the explosion, make it impossible to

arrive at any satisfactory conclusion. The theory advanced by some that under certain conditions gases are generated that cause explosions may have some foundation, but that, of course, is merely speculation. The system of examination in shop and round-house would seem to be complete, and such examinations to have been properly made, and the best material and construction to have been used. The Board is unable, after a careful consideration of the facts and circumstances and the evidence submitted, to reach a conclusion as to the cause of the accident, and, therefore, has no recommendation to make in the premises.

XIII.

IN THE MATTER OF A REAR END COLLISION ON THE LEHIGH VALLEY RAILROAD, AT NIAGARA JUNCTION, SEPTEMBER 30, 1896.

November 11, 1896.

While eastbound freight train No. 540 was standing a short distance west of Niagara Junction on the Lehigh Valley railroad at about 6.15 a. m. on the morning of September 30, 1896, for the purpose of cooling a hot journal, it was run into at the rear end by an eastbound extra freight train of 52 cars, drawn by two engines, throwing the caboose of train No. 540 over upon the westbound track. Simultaneously with the rear end collision, westbound freight train No. 547 ran into the wreck on the westbound track, causing the three engines to go down the bank at that point, destroying and damaging a number of cars, killing William Kimball, brakeman, and seriously injuring Denis McCarty, engineer of the westbound train. It appears from an investigation made by the Inspector of this Board immediately after the accident, from the evidence of the employees, and a subsequent investigation by a coroner, that the circumstances of the collision were as follows:

Train No. 540, was a regular train, running on regular schedule time. It left Buffalo about 4.20 a. m. and stopped at Niagara Junction between 6.07 and 6.08 a. m., on account of a hot journal, having passed the extra at Wende some distance beyond Batavia. The operator at Niagara Junction reported that train No. 540 arrived there at 6.10 and stopped with about 10 cars west of the station. Immediately after the train came to a stand Brakeman Quinn swears that he threw the semaphore signal west of the Central Bridge at danger, and his evidence is corroborated by that of several of the other train employees and of John V. Sullivan, the operator at Niagara Junction. The head engineer of the extra

testified that when he approached the semaphore it was at safety, although after the accident he looked back and saw it at danger. One of the train crew of the extra testified that he saw the semaphore at danger, and the weight of the evidence fully sustains Brakeman Quinn. It was also shown that even if there had been no semaphore there, train No. 540 should have been seen at any point between Batavia engine house and where the semaphore is located, a distance of 4,738 feet. The evidence as to the speed of the extra was conflicting, some of the trainmen of No. 540 swearing that it was going at the rate of 10 or 15 miles an hour, while the head engineer and trainman of the extra swear that it was not going over 6 or 8 miles an hour, except that the engineer of the second engine said that when he first saw 504's caboose "we were running about 15 miles an hour." It had been raining, the track was somewhat slippery, but the morning was clear and there were no atmospheric conditions to prevent a clear sight of the track. The head engineer of the extra testified that as soon as he saw No. 540 he put on the air but did not whistle for brakes or reverse his engine as he did not think it would do any good. Of the 52 cars of the extra, 24 or 25 were equipped with air brakes. When it became evident that a collision would occur both engineers of the extra jumped from their engines and ran down the bank. The employees of No. 540 escaped injury by running down the bank when they saw the westbound train coming.

It is apparent from the evidence that the engineer of the second engine saw the caboose of No. 540 first. He said he jumped first, but denied that he shouted to the engineer of the first train or called to anyone on that engine to get off. He reversed his engine before he jumped, but did not whistle for brakes. He was positive the head engineer put on the air before he jumped.

The speed of the train had been reduced to about 6 miles an hour when the collision occurred, although the distance from the point where the second engineer said he first saw 540's caboose, when the train was running at 15 miles an hour, to the point of collision, was only about the length of 20 cars.

The engineer of train No. 540, testified that he passed Batavia about 6.04. The only evidence relative to the position of the extra is that of David J. Kennedy, flagman on the train, who said that he looked at his watch when they passed Batavia and it was 6.10 or 6.12. Train No. 540 arrived at Niagara Junction at 6.10; the collision occurred at 6.15.

The verdict of the coroner's jury was to the effect that had rule 99 of the standard book of rules been observed, the accident would not have occurred. The rule referred to is a general rule adopted by all railroads for the protection of the rear end of a train by

flagmen, and provides that under all circumstances the flagman shall go back when the train has come to a stop not scheduled.

After a careful consideration of all the testimony and circumstances surrounding the case, the Board is of the opinion that the head engineer of the extra was derelict in his duty in not having been on the lookout for signals and for a train which he knew was only a short distance ahead of him, and which, according to the testimony, he could have seen in ample time to have applied the air brakes and stopped a train of 52 cars, 24 of which were equipped with such brakes, going even at the maximum rate of speed mentioned in the evidence; also, that the conductor of 540 was negligent in not obeying rule 99. The company regarded the engineers of the extra freight primarily responsible for the accident and discharged them from its service.

ACCIDENT INQUIRIES.

BOSTON AND ALBANY.

May 23, 1896.—J. Garner, of East Albany, was found dead on top of a car. On inquiry by the Board, the company replied as follows:

“Replying to your letter of the 8th, in relation to the death of Brakeman J. Garner, May 23; so far as we have been able to learn, the facts are as follows: Garner was last seen on the tender of the engine, at Niverville. At Chatham, Brakeman Wiest had his attention called to Garner by a woman, and going forward, found him lying on top of an “Arms” horse car, dead. It is reported that a hat, supposed to be his, was found near the second bridge west of Chatham, but this report has not been verified. The bridges between where he was last seen and where he was found were guarded by tell-tales; these have been examined and found to be in good order. We have been unable to find anyone who saw him immediately before or at the time of the accident.

“Yours truly,

“W. R. ROBESON,

“*General Superintendent.*”

BUFFALO, ROCHESTER AND PITTSBURG.

January 29, 1896.—John Behm, farmer, was injured on highway crossing. On inquiry, the Board received the following reply:

“I have your letter of February 19, requesting further information in regard to accident to Mr. John Behm, at West Falls, N. Y., January 29, 1896. There was nothing to obstruct the view except two box cars on station siding, and the distance from center of highway to end of nearest car is 103 feet. Mr. Behm had been drawing manure from the pile between the pickle factory and our tracks all of the previous day. His son had driven over the track just ahead of his father, saw the train approaching and called and motioned to the old gentleman to stop. The statements of the train crew, station agent and disinterested parties show conclusively that the whistle was sounded for the crossing and bell rung as required.

"It is very evident that Mr. Behm did not exercise ordinary precaution before attempting to cross our tracks.

"Your truly,

"GEO. E. MERCHANT,

"Assistant to President."

February 12, 1896.—James Dawson, brakeman, was killed. On inquiry the company sent the following reply:

"I have your letter of the 4th, referring to the accident at Gainesville, N. Y., February 12, 1896, in which Brakeman James Dawson was killed by the overhead bridge. This bridge is properly protected by ticklers and they were all in good condition, but Mr. Dawson left the cupola of the caboose just after they had passed the guard. He saw the reflection of the bridge and dodged but did not clear.

"Your truly,

"GEO. E. MERCHANT,

"Assistant to President."

DELAWARE AND HUDSON CANAL COMPANY.

March 5, 1896.—A man was found dead lying alongside of the track in Schenectady. On inquiry, the company replied as follows:.

"Replying to yours of 21st; a train can be distinctly seen from the crossing about 500 feet; an object on crossing can be seen from an engine about the same distance. On the inquest two witnesses swore that the man was struck on the crossing; this is all we know about it, as the enginemen claim not to have seen anything of the accident.

"Yours truly,

"C. D. HAMMOND,

"Superintendent."

April 4, 1896.—C. H. Simmons, brakeman, was killed at Schenectady. On inquiry the company replied as follows:

"Replying to your favor of the 24th inst., I have to say that an investigation as to the condition of the 'ticklers' on the 4th inst., has been made, and that they are reported to have been in good order at that date.

"Yours truly,

"C. D. HAMMOND,

"Superintendent."

April 13, 1896.—Jerome Jerrard was killed on crossing at Cohoes. On inquiry the company replied as follows:

"Replying to your favor of the 24th inst., attached, I have to inform you that if a person used proper precaution in approaching the crossing, the person would have an unobstructed view of the track of about 2,000 feet.

"Yours truly,
"C. D. HAMMOND,
"Superintendent."

June 23, 1896.—Isaac Terry and son were killed on crossing at Lansingburgh. On inquiry the company replied as follows:

"Replying to your favor of 1st instant, asking for further information regarding the accident at Lansingburgh, which resulted in the death of two persons by coming in collision with locomotive. This locomotive could have been seen for nearly a mile if the driver had stopped within a reasonable distance of the track and attempted to make any observations. The engine was running at from 35 to 40 miles per hour. I am advised that the driver was racing with another team. The man with whom he was racing saw the engine and stopped, and made an effort to call Mr. Terry's attention to the danger, but was unable to do so.

"Yours truly,
"C. D. HAMMOND,
"Superintendent."

August 1, 1896.—Three persons were killed on crossing about one mile north of Plattsburgh. On inquiry the company replied as follows:

"Replying to your favor of 26th ult., on one side, at a point 50 feet from the track, trains can be seen from the north about one mile; from the south, 800 to 1,000 feet. On the other side (the side from which the team was approaching) a train can be seen from either direction about 200 feet.

"Yours truly,
"C. D. HAMMOND,
"Superintendent."

DELAWARE, LACKAWANNA AND WESTERN.

August 26, 1896.—John Shoemaker was killed on crossing south of Columbia station. On inquiry the company replied as follows:

"Replying to yours of September 11, concerning accident at South Columbia station, August 26, 1896, I beg to say: Fifty feet from the track an approaching train can be seen about 1,300 feet. The usual warning signals were given.

"Yours respectfully,
"A. C. SALISBURY,
"Superintendent."

DUNKIRK, ALLEGHENY VALLEY AND PITTSBURGH.

September 4, 1895.— Three passengers were injured in a collision at Falconer. On inquiry the company replied as follows:

"I am in receipt of your favor of the 4th inst., relative to the collision at Falconer. I beg to advise you that the engineer, from his side of the engine, could not see whether train No. 2 was clear or not. The fireman advised him that the train was clear and when he got right on them he saw that it was not clear. His train had been under absolute control, and he was almost stopped. He pulled out after receiving assurance from the fireman that the train was clear.

"Yours truly,

"C. H. KETCHAM,

"Superintendent."

ERIE.

November 3, 1895.— J. W. Emerson was killed on crossing one mile east of Attica. On inquiry the company replied as follows:

"I take pleasure in giving you the additional information you desire in connection with accident at Attica, November 3, 1895, in which a man by the name of Emerson was killed.

"In accordance with your request of the 4th inst., measurements were taken to a point 50 feet from the center of the westbound track on the highway at the place of accident and we find the greatest distance that one could see an approaching train is 992 feet; there is a clear and unobstructed view at that distance.

"Yours truly,

"C. R. FITCH,

"Superintendent."

December 7, 1895.— Two passengers were killed in a collision at Anybodys. On inquiry the company replied as follows:

"Referring to your favor of the 8th inst., requesting certain information in regard to the accident at Anybodys, December 7, 1895, I inclose herewith copy of a communication received from our superintendent, Mr. H. E. Gilpin, which states fully the action taken in regard to this accident. We realize this was a very serious matter and regret exceedingly the occurrence.

"Yours truly,

"C. R. FITCH,

"General Superintendent."

Mr. C. R. FITCH, *General Superintendent, New York, N. Y.:*

"Dear Sir.— Respectfully referring to attached correspondence relative to the accident at Anybodys, on December 7, 1895, to

train 29. I would advise that Brakeman B. Stelly was solely responsible for this accident and was discharged from the service of the company on the following day. I would advise that Brakeman Stelly realized the fact and at first declined to report to my office and requested that I accept his resignation by telegraph, which I declined to do, and as he was still in the employ of the company I summoned him to my office. Conductor Gorman of train 76 persuaded him that it was the proper thing to do, and he therefore reported for the investigation, but was inclined to leave the country rather than stand an investigation. He had nothing whatever to say for himself in the matter other than the fact that he threw the switch and realized that he had done so too late to avoid the accident. I made it clear to him and to all others whom I had in the office at the time, which included the full crews, that such conduct was actually a criminal offense, and that outside of any discipline would be a subject for a criminal prosecution. Morally speaking, I feel that Stelly was thoroughly conscious of what he had done, and deeply regretted having done as he did. There was no other employe who could in any manner be censured with Stelly for this accident, although I made the most of the opportunity in order that the discipline applied in this case, together with the known facts in the case should be as far-reaching with the other employes of the company as possible.

"Brakeman B. Stelly had been in the employ of the company as brakeman, two years and two months, and bore a good reputation as such, and I had no reason to consider him in any manner incompetent or untrustworthy prior to this accident.

"Yours truly,

"H. E. GILPIN,

"Superintendent."

December 13, 1895.—Four passengers were injured in a collision at Salamanca. On inquiry the company replied as follows:

"In reply to your favor of the 8th inst., soliciting additional information in connection with the accident at Salamanca, December 13, 1895, I beg leave to enclose herewith copy of a report, covering the information you desire, submitted by Mr. H. E. Gilpin, our superintendent at Salamanca. Should you desire more information concerning this accident, I will be glad to furnish it.

"I will add to Mr. Gilpin's report that switchman Sullivan was discharged from the service and Yard Conductor Oaks was suspended 30 days.

"Yours truly,

"C. R. FITCH,

"General Superintendent."

Mr. C. R. FITCH, *General Superintendent, New York, N. Y.*:

DEAR SIR.— Respectfully referring to attached correspondence under date of the 11th inst. with letter from the Secretary of the Board of Railroad Commissioners attached under date of the 8th inst., relative to the accident to train 26 at the west end of Salamanca yard on December 13, 1895.

"I would respectfully advise that the form of target in use was that known as the Mansfield automatic and was of the low pattern, on account of its location between the tracks, where there would not be sufficient room for a high standard and under ordinary conditions this target could be seen by the engineer fully 800 feet. At this point, however, there are three switches close together, leaving the main track, it being directly at the heading of the west end of Salamanca yard. The morning in question being very frosty, and at the same time foggy, in a measure prevented the engineer from seeing the exact position of these targets and he approached carefully, the speed of the train being between 12 and 15 miles per hour. The engineer did discover that the switch was wrong and applied the air brake, too late, however; to avoid his running through the switch and colliding with cars on the siding, and on account of the frosty condition of the rail the brakes did not take hold as thoroughly as they should have done.

"Switchman P. J. Sullivan was the member of the switching crew who last used this switch and whose duty it was to see that it was placed back in its normal position, which was right for the main track. He neglected to do this, however, although he was instructed by the yard conductor to see that the switch was properly thrown after they had used it. He was not a regular switch tender, but a member of the switching crew, and became responsible for the proper position of all switches throughout the yard after they had used them. A short time after the switch had been used by the switching crew of which O. E. Oaks was the yard conductor, which was 40 minutes prior to the arriving time of train 26, Oaks instructed Sullivan to see that switch was properly thrown. Oaks reminded Sullivan of the position that the switch was left in. Sullivan then started to look after it but returned telling Oaks that some other engine was near the switch in question and he assumed that they would throw the switch back to place, while in point of fact the engine in question was not using it, or did not notice the wrong position of the switch as left by Oaks and Sullivan. Unquestionably it was Sullivan's duty to see that the switch was properly thrown irrespective of any instructions from Oaks, and unquestionably also it was Oaks' duty to see that Sullivan properly carried out his instructions, as the duties of his position are clearly defined, and I held Sullivan directly responsible for neglect of duty and gross carelessness, and sus-

pended Yard Conductor Oaks for carelessness in that he failed to see that his instructions were carried out. I did not hold any one else directly or indirectly responsible. The engineer I consider had done his part in remaining on his engine and doing everything in his power to avoid a serious collision.

“Yours truly,

“H. E. GILPIN,

“*Superintendent.*”

December 16, 1895.—Eight passengers were injured in a derailment at Nobodys. On inquiry the company replied as follows:

“In answer to your inquiry of the 8th inst., concerning the accident at Nobodys, December 16, 1895, I beg leave to state that the rail in question was a 74 pound rail, manufactured at Scranton in October, 1886. It has been in use practically since the date of manufacture. It was not badly worn. Should you desire any further information, I will be pleased to furnish it.

“Yours truly,

“C. R. FITCH,

“*General Superintendent.*”

February 8, 1896.—John A. Bennett, car repairer, was injured. On inquiry the company replied as follows:

“In reply to your favor of the 19th inst., requesting additional information concerning the accident at Hornellsville, February 8, in which an employe was injured, I beg to state that immediately upon the first notice I received of this accident I arranged for a thorough investigation. I am at this date in receipt of additional papers giving in detail all the circumstances.

“I find that the switching crew composed of John Maloney, H. Vaughn and J. H. Galbraith had crippled cars A. R. T. 2719 and E. D. 40129, containing preferred freight, to be placed in cripple yard for light repairs. On entering the cripple yard they found it completely blocked. N. Y. L. E. & W. car 32194, under which Car Repairer Bennett was working, was standing at the approach of the cripple yard and inspector's flags were in proper position at the west end of the cripple track. Upon seeing these flags the switchmen left the two cars above mentioned standing at the location, 100 feet west of Erie car 32194. Although the crew assert the brakes were set on these two cars, after they uncoupled their engine they nevertheless ran down on the line, striking car 32194 as previously reported. It is clearly evident that the car did not pass over Bennett's leg; it crowded him along the rail, however, in a manner sufficient to cause a very severe bruise.

“The action of the switchmen in placing this car in front of the

flags is directly contrary to the rules of the company and we hold them responsible for the accident. The fact of the cars running down indicates that the brakes were not properly set. The entire switching crew have been severely reprimanded and suspended for fifteen days. I think with this action we will not have occasion to report a similar accident at Hornellsville.

"Yours truly,

"C. R. FITCH,

"General Superintendent."

February 26, 1896.—William Doyle, injured by striking overhead bridge. On inquiry the company replied as follows:

"I beg leave to acknowledge the receipt of your favor of the 16th inst., in which you request additional information concerning the accident at Rush, February 26, 1896, in which an employe of this company was struck by an overhead bridge. I wish also to apologize for the delay in answering your communication, the reason for which is due to the fact that we have been thoroughly investigating the question of protecting bridges by guards or tell tales, and to do this intelligently it was necessary to get the height of the various bridges on the line that were not protected, and to arrive at a proper limit in the height of the bridges that should be protected.

"The bridge where the above-mentioned accident occurred was 19 feet from the top of the rail, and was not protected by guards. It has not been considered necessary heretofore to protect a bridge of this height, but looking into the matter we find that the height of cars has increased to such an extent during the past few years it is necessary to raise the protection limit. We have, therefore, made arrangements to protect all bridges and overhead obstructions that are less than 20 feet 6 inches above the top of the highest rail. This will provide ample room for the highest cars without danger of accident.

"Yours truly,

"C. R. FITCH,

"General Superintendent."

LAKE CHAMPLAIN AND MORIAH.

December 10, 1895.—Leslie Houndon was killed. On inquiry the company replied as follows:

"Your letter of April 25 to hand, and in reply would say the car was an Erie car belonging to the N. Y., L. E. and W. R. R. We received the car from D. and H., and we were switching it from the furnace when, in the attempt to set brake, the wheel came off.

"Yours,

"E. B. HEDDING,

"Superintendent."

LEHIGH VALLEY.

November 11, 1895.— Charles True, engineer, killed in a derailment at Levanna. On inquiry the company reported as follows:

"Your favor of 4th inst., duly received and noted, asking for further information in regard to accident at Levanna, on November 11, 1895, in which Charles True, the engineman, was killed and his fireman injured.

"In reply to your first question, 'How far could the obstruction on the track be seen by the engineer?'

"*Answer.* The obstruction could be seen by the engineer about 350 to 400 feet from the engineman's side of engine, and a much longer distance from the fireman's side, as the track is on a curve approaching where the obstruction was on the track. There is no cut at this point. The track is at base of bluff on one side, and the shore of Cayuga lake is on the other. A watchman is stationed there.

"Yours truly,

"ROLLIN H. WILBUR,

"*General Superintendent.*"

June 26, 1896.— Perry Swift, farmer, was killed on crossing west of Akron station. On inquiry the company replied as follows:

"Answering your letter of the 2d instant, in which you ask for further information in regard to the accident at Akron on June 26 last, please note that coming from the north there is an unobstructed view of 1,500 feet, and coming from the south, from which side the wagon was approaching, the view at a point 30 feet south of the track is about 600 feet, and the train could have been seen that distance away.

"Yours truly,

"ROLLIN H. WILBUR,

"*General Superintendent.*"

February 19, 1896.— Wm. H. Davis and Henry J. Kern, brakemen, were killed in a collision near East Buffalo. On inquiry the company replied as follows:

"I am in receipt of your favor of the 4th inst., in reference to the recent accident about two miles east of William street, East Buffalo, which occurred on February 19th, at which time two brakemen were killed.

"The investigation of this accident by the coroner led him to make a report in which he exonerated the railroad company from any liability, as according to his ideas, as well as our own, the accident was one of those which might justly be classed as un-

avoidable. The storm that night was something terrific, it being impossible at times to see more than 15 or 20 feet ahead.

"Yours truly,

"ROLLIN H. WILBUR,

"General Superintendent."

LONG ISLAND.

August 29, 1895.—Four people injured on crossing at Liberty avenue. On inquiry the company replied as follows:

"The delay in replying to your letter of October 7th, is due to its having been mislaid in one of our offices here. I beg to advise you that the crossing at Liberty street, where four people were injured in an accident on August 29th, last, is protected both by gates and flagman.

"The engineer and flagman were arrested at the time accident occurred, and afterward released on bail. Our investigation indicates that the flagman is alone responsible for the accident. It is evident that he lowered the gates when train was approaching, and afterward, when the truck of the Brooklyn Fire Department came in sight, he raised the gates and then attempted to flag the train, which was then within a city block of the crossing. When the train came to a stop, the second car from engine stood over the crossing.

"Yours truly,

"E. R. REYNOLDS,

"General Manager."

METROPOLITAN STREET (CABLE), NEW YORK CITY.

March 31, 1896.—One passenger and one employe were injured. On inquiry the company sent the following reply:

"Referring to your favor of the 17th inst., requesting the facts in connection with the collision of cable cars at the junction of Fifty-third street and Seventh avenue, on March 31, 1896, I beg to advise as follows:

"The sworn testimony of the signalman in charge of the movement of cars at that point (which is verified by his assistant and other witnesses), shows that about 6.30 p. m., March 31st, a north bound Columbus avenue car was approaching the junction at Fifty-third street and Seventh avenue, where the Columbus avenue cars turn to the west, crossing the south bound track of the main Broadway line, the terminus of which is at Fifty-ninth street and Seventh avenue. This Columbus avenue car, in accordance with the rules, came to a full stop. A red signal was then placed against a Broadway car which was at that time on Seventh avenue at Fifty-fourth street on its way south. The signalman then gave

the white flag to the Columbus avenue car, giving them a clear track. The Columbus avenue car started to take the curve and at the same time the gripman of the south bound Broadway car ran past the red flag and made no attempt to stop until the car was within a car length of the Columbus avenue car, crossing at right angles. He then noticed the danger and applied his brake, but could not stop in the short distance between the two cars. The cars came together on the crossing, badly wrecking the corner of the Columbus avenue car, and injuring the gripman and a passenger who was on the front platform, and also inflicting some slight injuries to two or three passengers inside of the car by the flying broken glass. The gripman of the Columbus avenue car was not seriously injured and returned to duty in a few days. The passenger who was on the front platform was taken to the hospital, from which he was discharged the day following.

"The investigation proved that the usual precautions were taken by the signalman at that point, and the accident was caused by the total disregard by the gripman of the Broadway car of the danger signal. It resulted in his dismissal from the service.

"As I advised you at our personal interview with reference to this accident, this point as well as other points of this character on the cable system, is as thoroughly and efficiently covered by the signal system as the physical conditions surrounding the operation of a street railroad will admit.

"Very truly,

"H. H. VREELAND,
"President."

May 17, 1896.—The following letter was sent H. H. Vreeland, President Metropolitan Street Railroad Company:

"DEAR SIR.—Please furnish the Board, at your earliest convenience, with all the particulars relative to the accident on Lexington avenue, resulting in the killing of a child by a car in charge of an inspector who had taken the place of an unskilled motorman.

"Very truly yours,

"CHAS. R. DEFREEST,
"Secretary."

Reply.

NEW YORK, May 12, 1896.

CHAS. R. DEFREEST, Esq., *Secretary, Board of Railroad Commissioners, Albany, N. Y.:*

"DEAR SIR.—Referring to your communication of the 7th inst., requesting particulars in connection with the accident on Lexington avenue, resulting in injury to a child who ran in front of one of our electric cars, I beg to advise you as follows: Our reports,

which are verified by eight disinterested witnesses, go to show that the car was being run at a speed of eight miles an hour. A number of boys were playing tag on the sidewalk, and in running in the same direction as the car was going. Two of them turned short and ran directly across the street in front of the car. The first one cleared the car, but the second one was struck by the bumper and knocked down, the wheel running over and crushing the boy's left leg.

"The statements of the witness exonerated the inspector in charge of the car, and show that he did all that human effort could do to stop the car. Inspector Wanamaker, who was in charge of the car, by direction of the starter, was relieving the regular motorman, who had gone to the office to make a report. Wanamaker has been in the employ of the company for many years; was a driver on the horse-cars on Broadway, then for a long period gripman; was then broken in as motorman of the electric cars, and shortly after was appointed inspector of the electric division.

"He is a careful and efficient employe, and has an excellent record, and was as well, if not better, qualified to operate the car than the average motorman, by reason of his greater experience.

"Yours very truly,

"H. H. VREELAND,

"*President.*"

NEW YORK CENTRAL AND HUDSON RIVER.

December 19, 1895.—Mrs. Lillian Langdon was killed on crossing at Saxton street, Rochester. On inquiry the company replied as follows:

"Replying to your favor of the 19th instant, in regard to accident at Saxton street, Rochester, December 19, 1895, in which Mrs. Lillian Langdon was fatally injured.

"The head-light on the engine was burning brightly and the bell ringing. Train was running about six miles per hour. This train was running on track 4, which is north of track 3. There was a freight train passing west on track 3, and Mrs. Langdon was standing on track 4, waiting until the freight train had entirely passed. The engineman of the train which struck Mrs. Langdon, as soon as he saw her, blew his whistle repeatedly and reversed his engine at once. The view toward the west, where the accident occurred, is perfectly straight for 1,350 feet, and at that point the track swings 6 feet to the north. There is nothing to prevent a head-light being seen for at least a distance of one-quarter of a mile west of Saxton street.

"Yours truly,

"E. VAN ETTEEN."

January 17, 1896.—Delia Mahon and Lizzie Becker were killed near One Hundred and Forty-third street, New York city. On inquiry the company replied as follows:

“Referring to yours of the 21st inst., in regard to accident at One Hundred and Forty-third street, New York, January 17.

“The engine was backing at the time, and there were lights on the rear of the tender.

“Yours truly,

“E. VAN ETTEN.”

February 22, 1896.—James Been, engineman, was killed in a derailment west of Brockport station. On inquiry the company replied as follows:

“Answering yours of the 25th instant, in further reference to the accident at Brockport, February 22, 1896, when a snow plow was derailed.

“This is supposed to have been caused by the heaving of a rail in the side track at the point of the derailment, due to the severe cold weather.

“Yours truly,

“E. VAN ETTEN.”

NEW ENGLAND.

March 7, 1896.—Albert Bennett, fireman, was injured by striking an overhead bridge near Matteawan. On inquiry, the company replied as follows:

“Yours of the 21st ult., relative to the accident at Matteawan on the Newburgh, Dutchess and Connecticut Railroad, March 7:

“At the time the accident occurred I am informed that the guards were 16 feet 7 inches above the top of rail.

“You understand that this bridge is located on the Newburgh, Dutchess and Connecticut Railroad, over which we have running arrangements between Hopewell Junction and Wicopee Junction.

“Yours truly,

“F. E. DEWEY,

“General Superintendent.”

NEW YORK, NEW HAVEN AND HARTFORD.

December 8, 1895.—Two employes were killed and three injured by derailment of yard engine, at 2.15 a. m., just east of Harlem river yard. Inquiry relative to the accident brought out the following statement:

“Yard crew, with switch engine, was instructed to go from Harlem river to Van Nest yard for empty freight cars, running orders limiting speed to 25 miles per hour. The engine left the rails on a curve east of the Harlem river while running at a speed

greatly in excess of the limit, turned on its side, killing the engineer and a brakeman and injuring two brakemen and the conductor. Track and engine were in first-class condition, the latter having come out of the shop on December 5, having been thoroughly overhauled and repaired. The accident was caused by excessive speed on curve."

January 19, 1896.—C. Gilbert, fireman, was killed in a derailment in Van Nest yard. On inquiry, the company replied as follows:

"In compliance with yours of February 4, beg to advise with reference to accident at Van Nest, January 19, that the freight cars were shoved off the derail about 5.50 a. m.; that the suburban train struck these cars at 6.16, an interval of about 26 minutes.

"Neither the conductor or the yardmaster made any investigation as to the condition of the derailed cars; the brakeman, P. Maloney, who was on the rear cars shoved off the derail, reporting to them that they did not obstruct the main track.

"The matter was carefully investigated, and we placed the responsibility on Brakeman Maloney; and I might add that the coroner's jury, at the inquest, exonerated the conductor and yardmaster and placed the responsibility on Maloney, who disappeared the day of the accident and has not since been found.

"He is dismissed from our service, and paymaster ordered to hold pay and report if he applies for money due him. I believe warrants are out for his arrest.

"Yours truly,

"O. M. SHEPARD,

"Superintendent."

NEW YORK, ONTARIO AND WESTERN.

August 18, 1895.—J. W. Cooper was killed in a collision at Bernhard's Bay. On inquiry, the company replied as follows:

"I beg to acknowledge receipt of your favor of October 3, and in reply to your inquiries in relation to the accident at Bernhard's Bay, August 18, would say that the orders in relation to cars left on siding are as follows:

"Rule No. 311. Instructions to freight conductors.—'They must see that no cars become detached from their train on the main track. When cars are left on a siding they must see that brakes are put on tightly to prevent them from being moved.'

"The conductor and flagman of train No. 30, having moved the cars on this siding, and having left them in condition to run out on the main track, were held responsible for the accident and were indefinitely suspended.

"The Bernhard's Bay siding is on a grade of three inches per 100 feet, or 13 feet per mile.

"Yours truly,

"J. E. CHILDS,

"General Manager."

August 23, 1896.—E. J. Stanton was killed one and one-half miles south of Oriskany Falls. On inquiry the company replied as follows:

"I am in receipt of your favor of October 2, in relation to accident at Oriskany Falls, August 23, 1896, and in reply to your inquiry beg to say that this bridge had guards, and they were in perfect condition at the time of the accident.

"Yours truly,

"J. E. CHILDS,

"General Manager."

OGDENSBURG AND LAKE CHAMPLAIN.

July 25, 1896.—Levi Sancomb and Matilda Busby were killed on crossing one and one-half miles east of Chateaugay. On inquiry, the company replied as follows:

"Replying to your favor of the 14th inst., permit me to say that in the angle made by our right of way and the public road upon the crossing of which the two people you refer to were killed, there is located a dwelling-house, ash-house, trees and shrubbery; the latter growing along the railroad fence, which cuts off the view of any one approaching the crossing from the north until they are within three rods of the track. From that point, however, a good view is had for a distance of about a half mile east and to Chateaugay station on the west.

"From this you will note that a person in a vehicle should be able to see a train approaching in either direction and sufficient distance to avoid an accident.

"Approaching from the other side there is no obstruction to a person's view for quite a distance. The team that met with the accident was approaching the crossing from the north.

"Yours truly,

"T. W. BALDWIN,

"General Superintendent."

ROCHESTER, CHARLOTTE AND MANITOU.

May 29, 1896.—On this date two electric cars on the Rochester, Charlotte and Manitou Railroad collided on a curve and heavy grade with great force, killing two employes and injuring three passengers. Upon inquiry it was ascertained that the car going

west was to wait at switch No. 2 for the eastbound car, but attempted, in spite of orders, to run the switch to the next switch at a high rate of speed. The orders were, after waiting five minutes at the first switch to run toward the next at a speed not to exceed four miles per hour. The two cars collided, as above stated, killing James Cook, the motorman of the car that ran the switch, fatally injuring William Bradford and slightly injuring three passengers. A copy of the rules of the company was forwarded the Board showing that the accident was the result of disobedience of these rules and that the conductor of the car which ran the switch was to blame for permitting the motorman to proceed. The conductor was discharged from the service.

WESTERN NEW YORK AND PENNSYLVANIA.

May 30, 1896.—Porter Pierce, brakeman, was killed in a derailment north of Ebenezer. On inquiry the company replied as follows:

"Referring to your letter of July 22, requesting further information in regard to the accident at Ebenezer, May 30, beg to inform you that the wheel which caused the wreck was the ordinary universal, double plate, chilled iron wheel, cast by Buffalo Car Wheel Works and dated April 1, 1892.

"Yours truly,

"R. BELL,

"General Superintendent."

WEST SHORE.

February 4, 1896.—Miss Julia Dinan was killed on crossing at Kingston. On inquiry, the company replied as follows:

"In response to your esteemed favor of the 21st inst., stating that you desire further information in regard to the killing at Kingston, February 4, of Miss Julia Dinan, would state that the train could have been seen by Miss Julia Dinan very much farther than was necessary to avoid being run over. Under the circumstances in this case, the question of distance has nothing to do with it. The gates were down for the passage of eastbound train No. 6 and westbound train No. 9, which were approaching the crossing at the time. Miss Dinan went underneath the gates, and as soon as train No. 6, eastbound, had passed crossed over on the other track and was struck by westbound train No. 9, resulting in her death.

"Yours truly,

"J. D. LAYNG,

"General Manager."

LENGTH OF STEAM RAILROADS

ACTUALLY BUILT AND IN OPERATION JUNE 30, 1896.

Small capitals indicate lessees; indentations indicate leased or operated lines.

Name of Company.	Miles in New York State.
Addison and Pennsylvania.....	10.56
Allegany and Kinzua.....	19.00
Bath and Hammondsport.....	10.00
BOSTON AND ALBANY.....	39.30
Hudson and Chatham (owned).....	17.33
BROOKLYN, BATH AND WEST END.....	6.80
South Brooklyn Railroad and Terminal.....	1.25
Brooklyn and Brighton Beach.....	7.50
Brooklyn and Rockaway Beach.....	3.20
Buffalo, Attica and Arcade.....	26.00
Buffalo Creek.....	5.82
Buffalo Creek Transfer.....	1.10
BUFFALO, ROCHESTER AND PITTSBURG (owned).....	166.18
Lincoln Park and Charlotte (owned).....	10.30
Perry.....	1.03
CATSKILL MOUNTAIN.....	15.75
Cairo.....	3.77
CENTRAL VERMONT:	
Ogdensburg and Lake Champlain.....	118.00
Saratoga and St. Lawrence.....	8.50
Central New York and Western.....	62.74
CHATEAUGAY.....	18.01
Chateaugay Railway.....	38.89
Plattsburgh and Dannemora.....	15.92
Clove Branch.....	8.26
Connecting Terminal.....	1.00
COOPERSTOWN AND CHARLOTTE VALLEY.....	4.51
Cooperstown and Susquehanna Valley.....	19.48
DELAWARE AND HUDSON CANAL COMPANY:	
Adirondack.....	56.97
Albany and Susquehanna.....	142.59

Name of Company.	Miles in New York State.
Cherry Valley, Sharon and Albany.....	21.04
Lackawanna and Susquehanna (owned).....	17.65
New York and Canada and leased lines.....	151.08
Rensselaer and Saratoga and leased lines.....	155.15
Schenectady and Duanesburgh	13.79
Schenectady and Mechanicville (owned).....	9.93
Dansville and Mount Morris.....	15.28
DELAWARE, LACKAWANNA AND WESTERN:	
Cayuga and Susquehanna.....	34.41
Greene.....	8.10
New York, Lackawanna and Western.....	207.79
Oswego and Syracuse.....	34.98
Syracuse, Binghamton and New York.....	81.00
Utica, Chenango and Susquehanna Valley.....	97.41
Valley.....	11.64
ERIE AND PROPRIETARY LINES.....	813.49
Avon, Geneseo and Mount Morris.....	17.70
Goshen and Deckertown.....	11.64
Middletown and Crawford.....	10.22
Montgomery and Erie.....	10.43
Northern Railroad of New Jersey.....	5.82
Patterson and Hudson River.....	.79
Rochester and Genesee Valley.....	18.40
FALL BROOK.....	15.00
Penn Yan and New York.....	7.07
Syracuse, Geneva and Corning.....	57.75
FITCHBURG	89.47
Saratoga and Schuylerville Branches.....	25.52
Troy and Bennington Branch.....	5.04
FONDA, JOHNSTOWN AND GLOVERSVILLE.....	26.17
Cayadutta Electric.....	14.90
Johnstown, Gloversville and Kinsboro.....	4.23
Gloversville and Broadalbin.....	6.20
Genesee and Wyoming Valley.....	16.16
GRAND TRUNK:	
United States and Canada.....	22.18
Greenwich and Johnsonville.....	14.65
Island.....	.14
Jamestown and Lake Erie.....	23.85
Kanona and Prattsburgh.....	11.44
Keeseville, Ausable Chasm and Lake Champlain.....	5.64
Kinderhook and Hudson.....	16.23
Lake Champlain and Moriah.....	7.66
Lake Shore and Michigan Southern.....	71.00

Name of Company.	Miles in New York State.
Lebanon Springs.	51.18
Lehigh and Hudson River.	14.50
LEHIGH VALLEY (RAILROAD):	
Elmira, Cortland and Northern.	118.49
Canastota and Northern.	20.65
Hayt's Corners, Ovid and Willard.	3.82
Lehigh Valley (railway).	282.68
Rochester Southern.	30.16
Lehigh and New York.	115.26
Waverly and State Line. . . . .	.41
Middlesex Valley.	29.43
Little Falls and Dolgeville.	10.32
LONG ISLAND.	287.23
Brooklyn and Jamaica.	9.63
Montauk extension.	21.21
New York, Brooklyn and Manhattan Beach.	18.24
New York and Coney Island.	2.27
New York and Rockaway.	5.40
North Shore Branch.	30.29
Prospect Park and Coney Island.	7.38
Marine. . . . .	.33
Middleburgh and Schoharie.	5.33
Mount McGregor.	10.50
Newburg, Dutchess and Connecticut.	58.84
New England.	30.47
NEW JERSEY AND NEW YORK.	16.88
Garnerville.	1.00
New York Central, Hudson River and Fort Orange. . . . .	.60
NEW YORK CENTRAL AND HUDSON RIVER.	819.45
Albany Branch.	11.04
Athens Branch.	6.16
Buffalo Creek Branch.	1.29
Carthage and Adirondack.	46.10
Dunkirk, Allegheny Valley and Pittsburg.	42.30
Fuller's Branch.	5.07
Port Morris.	1.85
New York and Harlem.	126.96
Rome, Watertown and Ogdensburg.	409.66
Rockland Lake Branch.	1.15
Niagara Falls Branch.	8.57
Carthage, Watertown and Sackett's Harbor.	28.81
Oswego and Rome.	26.89
Mohawk and Malone.	181.50
Utica and Black River.	150.38

Name of Company.	Miles in New York State.
New York and Mahopac.....	7.09
Mahopac Falls Branch.....	4.05
Tivoli Hollow.....	1.23
Troy and Greenbush.....	6.00
Spuyten Duyvil and Port Morris.....	6.04
Wallkill Valley.....	32.88
West Shore.....	451.67
Gouverneur and Oswegatchie.....	13.05
NEW YORK, CHICAGO AND ST. LOUIS.....	68.07
NEW YORK, NEW HAVEN AND HARTFORD.....	14.04
Harlem River and Port Chester.....	11.50
NEW YORK, ONTARIO AND WESTERN.....	318.77
Ontario, Carbondale and Scranton.....	2.91
Rome and Clinton.....	12.78
Utica, Clinton and Binghamton.....	31.30
Wharton Valley.....	6.80
New York and Rockaway Beach.....	13.93
New York and Sea Beach.....	6.00
NEW YORK, SUSQUEHANNA AND WESTERN:	
Campbell Hall Connecting.....	3.78
Middletown, Unionville and Water Gap.....	13.65
Niagara Junction.....	5.34
Northern New York.....	56.50
NORTHERN CENTRAL (of Pennsylvania):	
Elmira and Lake Ontario.....	99.61
Elmira and Williamsport.....	6.50
Orange County.....	10.70
Otis Elevating Railway.....	1.35
Owasco River.....	.50
PHILADELPHIA, READING AND NEW ENGLAND.....	57.60
Dutchess County.....	12.40
Hartford and Connecticut Western.....	42.50
Port Jervis, Monticello and New York.....	41.05
Poughkeepsie and Eastern.....	34.99
Rochester, Charlotte and Manitou.....	7.50
Saranac and Lake Placid.....	9.98
Schoharie Valley.....	4.38
Silver Lake.....	6.86
Skaneateles.....	5.00
St. Lawrence and Adirondack.....	10.20
STATEN ISLAND RAPID TRANSIT.....	10.90
Staten Island.....	12.82
Sterling Mountain.....	7.60
ULSTER AND DELAWARE.....	75.00

Name of Company.	Miles in New York State.
Kaaterskill.	7.50
Catskill and Tannersville.	1.00
Stony Clove and Catskill Mountain.	14.30
Delaware and Otsego.	8.79
Hobart Branch	3.61
Unadilla Valley.	19.14
Wellsville, Coudersport and Pine Creek.	10.08
Western New York and Pennsylvania and leased lines..	328.18
Total.	8,115.40

INSPECTIONS.

The following reports are condensations made by the Inspector from his field notes. The field notes themselves are filed in the office of the Board, and show in very much greater detail the condition of the structures and roadbed.

ADDISON AND PENNSYLVANIA RAILROAD.

(Inspected July 16, 1896.)

This road remains in about the same condition as when previously inspected, and the same recommendations are made now as then. Neglect is noted along this line from lack of funds. The sleepers were found in fair condition with few exceptions. Those that were noted poor were very much decayed. The portion of the road in this State has no ballast at all; ties are virtually on the soil, and the alignment and adjustment is consequently very poor. There has been no work to speak of accomplished since 1894. Shoulders are slack in many places, and material is greatly needed to widen on both sides. Three thousand five hundred ties have been placed so far this season, and 2,500 more are to be placed before winter. Traffic is comparatively small upon this line. The spiking is not good. The joint fastenings should have equal bearing at ties. Many bolts were noted missing and loose. Highway grade crossing signs are not legal as regards height of letters or form of sign. The rail is as yet in good form, though the low joints are telling upon it. Joint ties were noted poor and decayed in many instances. Grass and weeds are being removed. Crossing plank should be renewed where decayed or worn away. Cattle guards should surely be placed and maintained. The passenger stations need repairs in minor items, and agents should have some distinguishing badge while on duty. There can be no excuse for shims except that ballast is needed badly, and the trackmen in lieu of ballast have to resort to this dangerous and easily decayed item. Ajax braces to some extent were noted upon curves. Some spare rail were noted along the road for use in case of accident. Clearance marks were not in, and blind switches have not been placed. The spacing of the rail is not even. Trees too close to the track should be removed. The switches should be kept locked

when not in use. The long trestle on curve has no water for fire protection or guard rail. Every tie is not spiked, and the bolts were noticed loose at joints. Every opening should have guard rail. Planks should not be allowed on floors to hold ties apart. Good, large timber bolted through the ties should be placed at once. A number of the openings should be filled. One opening was noted with both sills covered. This is a very bad practice. It precludes inspection, and allows sudden failure to take place many times. Foot guards should be placed. The road has been allowed to run down so long that now an extra effort must be made to place it in anything like proper condition. The broadening of the gauge a few years ago necessitated many improvements which were then made, but true economy is only subserved by maintaining every item well.

BATH AND HAMMONDSPORT RAILROAD.

(Inspected July 16, 1896.)

This short road has been considerably improved since the last inspection in 1894, including a new station at Hammondsport, two new turntables, engine house and machine shop, 400 car loads of ties two years ago, and about the same last year; also new sidings to quite an extent. Point switches prevail. Clearance marks at all sidings should be placed and carefully maintained. Eight men care for this ten mile road. Bolts and spike were noted with few exceptions well in and ample. Derailing switches were noted. The line and surface of track was found good. Ties were noted very strong as a close rule, though some were noted too much decayed. The letters on the highway signs do not look over seven inches high, and do not conform to the law; nor do the signs, as they should, extend across the highway. Trees are allowed to stand too close to the track. Great damage is liable to occur at any time unless trees and telegraph poles are removed. The superintendent said these items would be attended to at once. Great care should be given crossing plank. They should be maintained in strong condition at all times. Grass and weeds should also be kept from the track. When the weeds are allowed to grow the ties are affected to quite an extent by the retention of moisture. Highways should be fenced out where close to the railroad or upon acute angles. Shims should not be allowed after the frost leaves the ground. A rail bender, drill and saw should always be in readiness to use if desired. This road should be fitted with iron beams instead of wooden stringers. The masonry is in fair condition, and needs but little pointing and relaying. True economy means iron instead of wood at many of the openings. Cattle guards should be placed and maintained. Water should be kept

at trestles and openings as protection against fire. While this road is in fair condition generally, much can be accomplished to make it safe within the limit. The superintendent promised that the above-mentioned items would be attended to at once. Guard rail should be placed upon the structures along the line.

BROOKLYN AND BRIGHTON BEACH RAILROAD.

(Inspected April 6, 1896.)

This property remains in the same general condition as when last inspected. The work of connecting the Kings County Elevated road is now in progress and is expected to be finished for travel by June next. The span over the Atlantic avenue line of the Long Island Railroad is up. Thirty-five hundred sawed cross ties, yellow pine 6x8 and eight feet in length will be placed this season. The work of placing the track in proper condition for summer traffic is going on, and considerable betterment was noted upon day of inspection, in the minor items. New frogs and switches will be placed when the Kings County Elevated is connected. The station at Franklin street and Atlantic avenue will be remodeled, and extensive changes are expected to be made to meet L road improvements. The overhead street bridges remain about the same. Paint is needed. Something should be done to keep the debris from adjacent city lots off the track. This road needs ballast badly, and an extra effort should be made to obtain it. Bolts at rail joints should be kept in place and spiking should be full. Joints should have firm bed on the ties. The fences should be repaired and new erected where needed. Trees overhanging the track or standing near enough to be thrown upon the track by high winds or lightning should be removed. The openings in the roadbed appear strong, and the floor systems are fair. Ditching should be resorted to upon a road of this class, particularly where ballast is so meagre. The cars and engines have been overhauled, and most of them are ready for the season. This road in the near future may be converted to a trolley line. All angles at frogs and the like should be blocked.

NEW YORK AND SEA BEACH RAILROAD.

(Inspected April 6, 1896.)

This road and property while bettered to some extent, still shows lack of economical maintenance. It has been allowed to run down so long that considerable money is now needed to place it as an average road of the State. It is now in the hands of a receiver. Twelve new cars and two new engines have been purchased lately. Thirty-five hundred new chestnut ties are being

placed. All angles are to be blocked along the tracks. Bolts at rail joints were noted missing but the superintendent assured your Inspector these with the spikes would be placed full on the entire road. Some 35 tons of new rails were laid last year. Guard rails should be upon structures, and filling resorted to where possible. The station platforms were all renewed last year; also painted. Fences are mostly down, and an extra effort should be made to keep the property properly enclosed. No cattle guards at all or cross fences. The highway signs were found generally good. The rail joint fastenings should be firmly bedded on cross ties. Ties were noted poorly spaced. Considerable speed is maintained upon this road between stations and too much care can not be taken to keep all the parts of the track in firm bearing. Facing switches were not noted. Ditching will, it is said, be carefully attended to before June 1, next. The draw bridge at the island end is now in fair condition. Shims should not be allowed on bridge floors, and every tie on floors should be spiked. Ballast is needed badly; a road can not be economically maintained without good depth of ballast.

BROOKLYN, BATH AND WEST END.

(Inspected April 6, 1896.)

This road continues to be operated by electricity as previously reported. The speed of cars is not excessive, and all possible precautions are taken by the officials at points where accidents might occur. Nothing new of moment was noted, and your Inspector concluded that the management and maintenance of this line compared favorably with the other trolley lines of the State.

BOSTON AND ALBANY RAILROAD.

Main Line.

(Inspected April 16, 1896.)

This property remains in the same excellent condition as when last inspected in 1894. Repairs and renewals have been kept up and the permanent way as a whole shows constant care and true economy. The cross ties were found large, closely spaced, and strong in life. Some pointing was noted, as needed on abutment walls, and the officials assured your Inspector this would be attended to in a few weeks. Some eight single track miles of 95-pound steel rail has been laid since the last inspection; about 19,000 chestnut ties were laid last year, and 23,000 will be laid this year. Derailing switches should be placed at all points where safety can be subserved. This your Inspector was informed would be

accomplished this season. Foot guards were noted at all points along the tracks, though some were found needing renewal. Fifteen miles of ballast material was placed last year, and the company expects to place about three miles this year. The tracks have been raised in a number of places and the line and grades greatly bettered. Bridge No. 226 has been strengthened with extra floor stringers, this is also true of a number of structures since the last inspection. The bridges as a whole are well and carefully maintained with good factor of safety. All trees should be removed where there is any liability of being blown upon the track. The arch culverts under embankment have received attention. Three were thoroughly overhauled last year. One is to be looked after and extensive repairs made this season. Three new overhead bridges were noted; they were erected last year. The Servis, Churchward and Goldie tie plates are being experimented with. Six miles of wire and three of post and board fence was built last year. About six miles of wire fence will be erected this year. Tile pipe laid in the wet cuts would greatly assist track maintenance. Many of the roads of this State are following this plan with great economy and beneficial results. Four facing switches were noted on the main line, but they are protected. Some of the passenger stations, notably Schodack, needs remodeling or new and modern construction. Highway warning signs are in very good condition, as are the cattle guards, though wooden strips are thought better of than the iron slats. One highway grade crossing has been done away with since last inspection. Your Inspector was pleased to learn that the first prize for best track work on this road was given to the New York division, No. 4, last year. Spare rail should be kept along the road at every mile post. Guard rail should be placed on all bridges. Too much care can not be taken on bridge floors; water should not be allowed to rust lower chord plates and end of girders should be kept free from dirt, cinders, etc. The wire "tell tales" were noted in many instances bent and twisted. Those made of rope and wire give better satisfaction to many of the roads. Electricity has been placed in the Chatham station and the conveniences are now very good. Targets were noted in good condition. The tunnel, 620 feet long, and curves was found in good condition.

Hudson and Chatham Branch.

This line is single track about 18 miles long, and in much better condition than when last inspected. Three and a half miles of 72-pound steel rail $4\frac{1}{2}$ inches was laid in 1894, and two and a half miles of the same kind in 1895. Some 20 split point switches were placed since the last report. Nine thousand nine hundred and

sixty cross ties were placed in 1894, and 5,600 last year. Derailing switches were not noted on sidings, but two were found on the main line. No delay should be allowed in placing this important safety device at all points where accidents may happen. Ten openings have been closed up by utilizing cast iron pipe. The item of ballast has not received the attention it should; not a few places were noted needing considerable. The fences along this line are maintained by the abutting land owners. All of the minor openings are now supported with metal stringers, and all of the substructures have been repaired and properly overhauled since the last inspection. Three new bridges have been erected and are now in fine form supported by good masonry. Immediate attention is needed in placing the telegraph poles further away from the track. High winds or lightning might easily cause derailment by throwing sections of the telegraph line upon the track. All trees close enough to the track to be blown upon it should be removed. Foot guards were noted well in place though some need renewal and attention. Guard rail should be placed upon the bridges. The cross ties were found generally strong in life, well spaced, and of good section. The row of willow trees that stand close to the track should be removed without delay. Attention should be paid at ends of the culverts; parapet walls should be kept in sound condition; crossing plank should be kept firm and in strong life. The passenger stations as a rule were found neat and clean; minor repairs made, and conveniences fair with few exceptions. Drinking water should be kept in or near every waiting room. The closets upon this company's line, generally were noted upon day of inspection in very good sanitary condition. The ditches are to be thoroughly cleaned out at once. Considering the time of year and recent disappearance of frost this line is in good condition.

BROOKLYN ELEVATED.

(Inspected February 25, 1896.)

This road is double tracked, 20 miles long (operated). Sixteen and ninety-one hundredths miles is laid with 60-pound steel rail, and the balance with 85-pound steel rail. The Broadway line is two and three-fourths miles. Myrtle avenue line four and thirteen-hundredths miles. Fifth avenue line five and sixteen-hundredths miles. The main line (8.01 miles) begins at the Brooklyn Bridge, runs through Adams street, Myrtle avenue, Grand avenue, Lexington avenue, Broadway, Fulton and Crescent avenues, ending at Cypress Hill cemetery. October 27, 1890, the Union L road was merged with the Brooklyn. The original lease of the seaside road is dated, April 28, 1891. This was modified August 1, 1892. The original elevated structure was begun in

1878 and completed in 1885. The present equipment consists of 96 engines, 74 of which are "simple" and the balance compound. Two hundred and eighty-six passenger coaches, 15 flat and coal cars and one supply car. The ties, guard timbers, rails and switches appeared upon day of inspection in very fair condition. The old tie construction was 6x8 inch and the new 7x8 inch section. Yellow pine is used upon tangents and white oak upon curves. Two per cent. grade is the sharpest, and the sharpest curve has a radius of 101½ feet. Very few rail joints were noted improperly secured. The spiking and bolting as a general rule being good upon all the lines. Over decayed guard timbers were noted in places, but the officials assured your Inspector that renewals were being made as quickly as possible. Great care should be given to keeping every joint well bolted and spiked. Very little shimming was noted. The old 60-pound steel rail wears well, though places were noted needing renewal. Your Inspector did not notice an excess of short rail. Much more care and attention is suggested in the rail alignment upon the main line. The button-head guard timber bolts are taking the place of the old style of filling with cement. The loop at the river end is nearly completed, as is the connection with the bridge depot. All of this work is very good. The structural work, with few exceptions, is of steel, and ample metal is used. The solid floor work at this end does not appear the best construction. Proper drainage should be looked after. The metal drip pans should be given more pitch to avoid rust from standing water, snow and ice. The passenger stations are very well cared for as a rule. Minor repairs were noted as needed in some instances. There are 60 stations in all. The curves as a rule were noted well cared for with guard rail braces and extra spiking. Considerable vibration was noted in sections of the old work, though not as yet excessive. The property generally, was clean and neatly kept. The Lexington avenue line is now being painted. It is being steel brushed and scraped carefully. The metal work upon the entire road should be kept well coated with good material to ensure the best results. Some of it has been neglected too long and looks badly, showing excessive rust. The metal work, upon this entire road seems ample in section. Iron was used in the old part. Steel has been utilized in all of the new work. Loose rivets were noted very exceptionable. The longitudinal girders are of the deck plate girder style. Some transverse lattice deck girders were noted. Not a little plate girder work without "stiffners" was noted. The web plates being spliced, your Inspector does not consider this make of girder sufficiently rigid for elevated railroad work in crowded cities. It would not seem to stand heat as well, or stand up under sudden heavy loads. Opinion among bridge men vary considerably upon this question. How-

ever, some claiming stiffeners along the web members are not needed. Where strength and rigidity is all important, designers should be very careful to be over strong, rather than be guided by set rules, which do not take into consideration the great variety of fixed conditions existing in a crowded city with high buildings and constant chance of fire. The interlocking upon this road is very good, and special devices invented to control unusual conditions were noted working freely and with satisfaction. Block signals were not noted, and it is suggested that every possible precaution be taken to prevent accident during fog, or by reason of derailment, blocking of tracks, etc. Metal bumpers at dead ends were noted placed, in many instances. More attention should be given to keeping the plank walk for employes along the structure free from decay.

BUFFALO, ATTICA AND ARCADE RAILROAD.

(Inspected August 19, 1896.)

This road was formerly known as the Attica and Freedom Railroad. It has since been broad gauged and some improvements made. One engine and a combination car accommodates the business of the road. Some freight cars are also owned. The road now extends from Attica to Arcade, a distance of 26 miles. Grass and weeds upon the track were so thick that your Inspector could not properly inspect the cross ties. However, enough was seen to prove the necessity of large renewals. Neglect is apparent everywhere. Bolts gone, loose, rail joints poorly spiked, ties resting in ordinary soil, mud over the ties in cuts, no ballast, right of way strewn with decayed ties, timber and old stumps, trees overhanging the track and brush uncut, shoulders slack. For quite a distance along a creek the roadbed is eaten and washed away so as to be dangerous. An attempt has been made to prevent wash and undermining by driving fence rails in the ground and placing decayed pieces of timber next the track upon which dirt is to be placed if it can be obtained nearby. The first freshet will wash away everything so placed. Large stones should be placed to prevent the inroads of the water. The road as found on day of inspection is a menace to public safety, and unless immediately attended to should cease operation. The structures are all hemlock timber. One carpenter cares for the bridges, but has to rely upon the trackman for assistance. Considerable renewal of timber has been made in the small openings; but hemlock is treacherous, and when new pieces are placed to bear with those more or less decayed, the conditions are anything but safe. Sills were found covered up in many instances. Sudden failure by reason of posts crushing into the sills is imminent. The Howe truss bridges are

as previously reported, excepting the addition of bents. The upper and lower chords, diagonals and counters and also the vertical rods are in poor condition. High water could easily wash out bents, and thus cause serious damage. Chances should not be taken. The line and surface of the track is as poor as can be imagined. There is no pretention to bend the rails at curves, therefore curves do not exist—simply a series of angles take the place of what should be the curved portion. The vertical kinking of the rail is very great, owing to absence of ballast. Only 11 car loads of ties were used this year. Ballast material of fair quality for a road of this kind is to be had upon the line. Three or four men were noted in one place digging and placing gravel on the track. The ditches have been so long untouched that it was with difficulty any semblance could be seen of them. Shims and blocking under the rail were noted. While the speed upon this road is not of moment, yet it is too much for the condition of the track and roadbed. A number of short, deep sags were noted, one being about 10 feet in a distance of 200 feet. The crossing signs at highways are not legal, being so worn that the letters can hardly be seen a short distance away. The rail joints were noted very poorly spiked and attended to.

In connection with the above report assurances were given the Board that immediately efforts would be made to make the road positively safe, or, in the event of failure to do this, a suspension of operations would follow.

BUFFALO, ROCHESTER AND PITTSBURG RAILROAD.

Main Line—Rochester Division.

(Inspected July 8, 1896.)

Many improvements were noted upon this division from Rochester to the State line, including 46,000 ties placed in 1895; 16,000 ties have been placed so far this year, and 38,000 more are to go in this season. Tie renewals are late this year. After the inspection in 1894 gravel ballast was placed about eight inches deep on 27 miles of road and on 21 miles in 1895, between Mumford and Gainesville, about six inches deep. In December, 1894, five miles of 80-pound steel rail, 45 feet long (each length), was laid near Gainesville. In 1895, 12 miles of this heavy section was laid with 30-foot lengths, Scranton make; and between LeRoy and Wyoming four miles of this same rail was also laid east of Gainesville. Last December four miles, 45-foot lengths, 80-pound, mitered joints were laid. Twenty-five miles of Page woven-wire fencing have been erected; 3,000 feet of new siding in Lincoln Park yard have been laid recently; also 6,500 feet of siding added

at Gainesville. The cross ties, mostly oak, were found in fair condition. Oak is a very deceptive wood. It looks strong and in good life when there is nothing but a shell left. It decays from the heart out, and quickly when the ditches are not properly attended to. Many ties were noted badly decayed, and prompt renewals should be made. This division is being ballasted in good form; gravel of good quality is used. Considerable grading has been accomplished and the ditches well attended to as a rule. Shoulders were found well filled out, though some instances, for quite long stretches, were noted slack. Alignment and adjustment of track were noted very fairly cared for. The spiking should be given more attention, particularly at joints on bridge and trestle floors. The bolts at rail joints, as a rule, were found well in and tight. Great care should be given to this important item around frogs and the vicinity of switches; every bolt hole should be filled with bolts. Angle-bars are in use for joints as a rule, and they were noted of good section, and generally free from cracks and imperfections. The rail was found wearing fairly well; the new heavy section is desired for economy. This heavy rail wears well and is a very strong and well-designed section for the needs of this road. Some heavy grades were noted, but not excessive. Sags are being taken out to a great extent. The fences were found generally well up. Grass and weeds were being cut and removed upon day of inspection. The switches were found well cared for generally; split joints prevail, and many were noted reinforced from the points back, and only one brace. This form has been made the standard upon this road. Guard-rails opposite frogs were noted braced. The ditches generally appeared well cared for. The warning signs at grade crossings were found in good form, well painted, and in conspicuous position. Some of the old style were noted, with seven-inch letter; these are to be removed immediately. The item of crossing-plank has also been given attention. Some were noted, however, too much broken and decayed. The culverts under embankments have been given attention; all appeared in safe condition. The cattle-guards are generally wooden slats and very well cared for, as were the cross fences and wings; whitewash makes them plainly seen at a distance; some were noted needing repairs and renewals. The passenger stations were found neat and orderly inside as a rule; windows should be kept clean; paint was also needed in many instances, but the general repairs were found very fairly cared for. Many shims were noted in. There can be no excuse for keeping this dangerous make-shift after the frost has left the ground. The bracing on curves was fair, though many were noted broken. Steel braces are now in use and the

cast-iron article is not well thought of, because it is not reliable. The right of way was noted generally clean and orderly. Spare rails for use in case of accident were upon brackets at short intervals along the line. Clearance-post marks were at all sidings and spurs. Posts should not be used; they are dangerous at night. Employes stumble and fall over them. A thin board, nailed to the top of the opposite ties at the proper point and the ballast or dirt sloped up to them, is recommended. These are easily made, repaired or renewed; cost very little, and obviate the danger of stumbling and injury to the men while at work. Blind switches, or derailing devices, are in place at all sidings having downward grade to the main track. Trees standing close enough to fall upon the track should be removed at once. A general order was given by the chief engineer upon day of inspection to remove all such trees. Telegraph poles should also be moved an ample distance away from the track. Foot-guards should be placed, when possible, at angles. Drinking water should be kept within easy reach at all waiting-rooms. Water for fire protection should be kept constantly on hand at stations. The curves were found very well adjusted for speed. While this road is largely a freight road, still the curves should be spiraled. All facing switches should be removed where possible. The structures in the roadbed have no guard-rail, and many openings were noted without water in barrels. Many openings were noted with wooden stringers resting on stone abutments. Built beams of iron or steel should be placed at these points. This division has too many openings, and it is earnestly suggested that immediate steps be taken to narrow, fill up or cover a large number of them. The work of keeping these wooden waterways, cattle-passes and trestles in safe condition is expensive. Care is taken to remove the timber before the safe limit is reached. Sills should not be kept covered or even allowed part way in the mud. They should be high and dry and, properly, upon stone walls or piers. Many were noted hidden from any chance of proper inspection. Attention was called at the previous inspection to this dangerous practice, but heroic measures are evidently needed to insure positive safety in this respect. When a cattle-pass is in need of four new stringers too many chances are taken. The question of closing up or narrowing the openings has not received the attention it should. One long trestle, known as the Rock Glen, has been filled. A few others are also to be closed. Many of the steel and iron structures need paint. Masonry in many places needs attention, pointing and resetting. The long trestle near the Erie Railroad crossing should certainly be filled without delay; it is 3,585 feet long, but not high.

Buffalo Division.

From Ashford Junction to Buffalo, 45 miles, was next inspected, and many improvements noted, including three openings closed up since the last inspection and a new connection with the Western New York and Pennsylvania Railroad, at Buffalo. Appearances indicate clearly that this line is being neglected. The ties are not renewed as they should be; 13,000 more ties are needed at once; many were noted decayed beyond the limit. Eight miles of 80-pound steel rail have been laid (45-foot lengths). No delay should be allowed in placing the required number of ties. Sills were found covered up so as to preclude inspection. Ballast is needed very much. Low joints along this line were noted too frequent. No grading of moment has been done, and the shoulders need attention without delay. The line and surface were found poor. The rail joints should receive more attention; every bolt hole should be filled and spikes should be in. Ties should be spaced properly. The old rail is considerably worn, and short pieces should not be allowed upon a main line; new rail should replace all short pieces. Fences were noted neglected at intervals. Grass and weeds should be removed from the track and brush should be cleared away. The switches were found in fair condition, though bolts should be kept in at frogs and near the points. Neglect was noted in keeping the switches locked when not in use. There can be no excuse for leaving any switch on the main line unlocked. The ditches have not received the attention they should. Some work has been accomplished, but with little or no ballast the ditches should receive constant care. The highway grade warning signs of the new standard form were noted good, but those with seven-inch letters should be removed. More attention should be given to the item of crossing plank. Repairs and renewals were noted as needed upon the cattle-guards. The passenger stations were well cared for as a rule, but paint is needed on many; also minor repairs. Many shims were noticed. Without ties or ballast, this line will, in a short time, be quite dangerous. It is poor economy to allow a road to run down. Cast-iron braces were noted upon the curves, and a great many of them found cracked or broken. There is no economy in this. Tie-plates, with shoulders, are much more economical; wrought-iron or steel braces are also cheaper and more reliable. The right of way was found in fair condition as a rule. Trees should be removed at once where standing too close to the track. This was promised by the chief engineer. Spare rails were noted up at frequent points in case of accident. Clearance marks were noted at many places, though neglect was apparent in this particular. Derailing devices were noted, and considerable care is given to

this very important item. Foot-guards were not noted. These should be placed where possible and maintained carefully. Drinking water should be kept at every station, within easy access of the patrons of the road. Water should also be kept for protection against fire at every wooden bridge and trestle. The curves should be spiraled and relined. The structures in the roadbed were found in fair condition, though many were noted needing immediate attention. Guard-rails are not in use, so that in many instances a derailed truck would easily cause danger. This road has too many openings to the mileage. For example, between Springville and Riceville, a distance of seven miles, there are 17 structures. Two per mile is considered by many roads excessive, and extra efforts are being made on many of the roads of the State to reduce this number to one in two miles and less. Many of the openings upon this road should be filled up, narrowed, covered or piped. An iron through bridge was noted resting upon wooden abutments. This is not good construction. Bents were noted in trestles over mountain streams narrowing up the waterway, and affording anything but easy passage for logs, ice, debris, etc., during freshets. This construction should not be allowed. One trestle was noted standing upon solid rock, an ideal place for a stone arch culvert. The wooden structures can be kept in much safer condition if more help is allowed and material furnished. The Cattaraugus viaduct should be replaced with a structure of modern design at once. It was erected in 1882. The masonry in the piers consists of coarse sandstone found near by. This structure is too light for the traffic, and while effort has been made, as previously reported, to properly maintain it, it is now positively in need of renewal. There are no guard-rails. The shale rock face of the east bank is disintegrating, and the pier which stands near the edge will soon be in dangerous position. While the speed is supposed to be very slow over it, and orders are given to that effect, yet trains pass over it quickly, and the vibration is excessive. A suitable structure should be erected this year.

Charlotte Branch.

This branch remains as when previously inspected. Passengers are not carried upon it, and it is in fair condition for freight traffic.

CENTRAL VERMONT RAILROAD.

Ogdensburg and Lake Champlain Division.

(Inspected August 15, 1895.)

The improvements upon this line since the last inspection have been many, including 26 cattle-guards of the old open pit kind,

which have been filled and slats of wood placed. This work should be continued until all are in proper form. Eleven miles of woven-wire fence have been erected, and it appears in strong form. Twelve more of the open cattle pits will be filled in, the officials say, before winter. Some 75-pound steel rail has been laid but not much. Sixty thousand hemlock and tamarack ties have been placed this year; 58,000 were placed last year. Some cedar was noted. Twelve split-point switches have been placed and six more are to be put in this fall. The highway warning signs are being painted and seven new ones were noted. Some side-track has been laid, including 700 feet at Moriah, to accommodate the Northern New York Railroad. New stations of very good design and modern conveniences were found at Madrid, Moriah and Bangor, all frame and strongly built. Considerable repairs and painting, both inside and out, were noted at the various stations along this line. All the openings up to 19 feet are new in the last two years. The stringers, as a rule, are yellow pine, though a few spruce prevail on the small openings. The masonry has been overhauled and pointed. Much more of this work is needed, however. There is a new steel deck lattice girder, 101 feet span, at Ellenburg, and an approach of deck plate girder form, 57 feet span. These were furnished by the Vermont Construction Company; deck plate girder at Chateaugay, 51 feet span; deck plate girder at Burke, 45 feet span, and deck plate girders at Lawrence, 61 feet span, by the Elmira Construction Company. All of the masonry was relayed at the above, except Burke and Chateaugay. Three new spans of deck plate girders are to be placed at Malone over the Salmon river before winter. There is an overhead bridge at Ford street, Ogdensburg. There are 94 structures, over six feet span, on this division. Those under six feet are looked after and kept in repair by the track force. This should not be allowed. The bridge force should have immediate charge of every opening in the roadbed. Intelligent maintenance should demand that those familiar with bridge construction should be held responsible. These small openings and their parts are generally considered by railroad officials as not very important. They are, however, very important and, improperly cared for, might cause great loss of life. Your Inspector would suggest that all of the structures having "stress" and susceptible of sudden failure, be placed under and maintained by the bridge force. The new 75-pound rail is five inches high and five inches on base. The angle bars are 32 inches long and weigh 48 pounds per pair, with six bolts. Derailing switches were noted, and the officials informed your Inspector that they have been placed at every point where cars stand. The abutment of the overhead bridge near Madrid, spoken of as too close to track in previous report, has not been

attended to. An accident at this point would clearly leave the company responsible. It is very close and, consequently, very dangerous; if the track can not be moved so as to give ample room the abutment should be relaid. This division is laid with square rail joints as a rule; a short "staggered" space exists. Missing joint bolts were noted too frequent. Your Inspector was promised that every joint would be full bolted and spiked immediately. The short joint fastenings noted were promised to be replaced at once. The order for new plates was delayed and the roadmaster, upon day of inspection, had not received them, but said they would be placed as soon as possible. The structures were all found in a very good state of maintenance as a rule. Some very old stringers, on short spans and trestles were noted, but these were promised immediate attention. The Burr trusses still remain in place, and are watched carefully, and were recently overhauled. These structures should not be allowed to remain. The 45-foot opening near Lawrence, now bented with piles is safe; it was a Burr truss but will be a steel girder when renewal is made. This division needs ballast very badly. Your Inspector noted summer shimming in places; this should not be allowed. Cinder or gravel ballast at these places, in sufficient quantities, would overcome the trouble of adzing out the ties and make the chance for derailment very small. Your Inspector would suggest for safety at these points, that ballast be placed instead of blocking, so that the rail will be held as firm as possible. The hemlock ties are very soft, and with the increased freight traffic upon this division, do not last long in their full section. The rail cuts into them badly, particularly where the ballast is meagre. The Bombay branch still remains as previously reported; repairs have been made, and, for the needs of the business, this branch is in fair form. The trestles have been overhauled and the small openings repaired as needed.

CHATEAUGAY RAILROAD.

Narrow Gauge.

(Inspected August 14, 1895.)

Among the improvements made upon this road since the last inspection are the following: New line near Plattsburgh to avoid United States property, new siding to pulp mill. Filling out shoulders, new station at Chazy Lake, and repairs to station generally, and new siding at Rainbow, 1,000 feet long. The tie renewals this year are said to be 37,000, mostly tamarack. They are close together and of fair section as a rule. The grading along the line with the material at hand has been well attended to. Some

ballast was noted though sand answers the purpose largely. Gravel ballast would add greatly to keeping this track well surfaced, and in permanent condition. Grass has been cut where possible in the cleared portion. The highway crossing signs need attention. This was promised by the officials. Many shims were noted under main track rail. There is no excuse for this. Some officials excuse summer shimming by claiming certain places heave badly in winter and it saves cutting the ties. Your Inspector would suggest that an ample quantity of cinders or gravel be placed under the track at these points, and thereby keep the track in safe condition. Your Inspector was surprised to find neglect in keeping the rails amply spiked and bolted. Too small track force is no doubt the reason; more men should be employed so that the rails and joints may remain in safe position. Too much care can not be taken in keeping the joints firm and upright. The masonry at many of the openings needs pointing badly and some relaying. The switches were found as a rule well cared for and locked when not in use. The targets need painting. The alignment on curves should be given more attention. More work is suggested in keeping the ditches open and graded to shed the water freely. The fences were found well cared for except through the thick woods. Crossing plank should be renewed in a number of places. Iron braces should be used entirely; wooden braces are not the proper thing, and are not strong enough. Extra rails should be kept at mile intervals in case of accident. Clearance marks were not noted as often as needed. There are no derailing switches of moment upon this road. The structures were examined and found fairly well attended to as a rule, though some of the trestles appeared to need new caps, sills and stringers. Your Inspector was informed by the superintendent that the bridge men were working over the road toward Plattsburgh overhauling and amply repairing the trestles and single spans. Your Inspector would respectfully suggest that the trestles upon this road be filled without delay; ample material is at hand for many of them.

DELAWARE AND HUDSON CANAL COMPANY'S RAILROADS.

Binghamton to Albany (Main Line, Susquehanna Division).

(Inspected September 23, 1896.)

The inspection began this year at Binghamton. Among the improvements noted upon this line since the last report are the following: Twelve electric gongs at highway grade crossings on whole road; double track from Harpersville to Nineveh, one and one-half miles from Unadilla to Oneonta about sixteen miles

and from Schenectady to East Worcester, nine and one-half miles. The above work of double tracking has been accomplished since last February. This work including cutting down summits and raising sags to a considerable extent. Five miles of new fence have been erected. The heavy 80-pound rail now extends about half way between Binghamton and Albany. All of the double track curves have been spiraled, and the good results are daily apparent. Large quantities of cinder ballast has been placed, and more is needed badly. A new through lattice bridge over the Susquehanna river was noted. A number of bridges have been reinforced since 1894, and a number of trestles shortened or filled. Now there is only one small trestle, and that in safe condition, between Albany and Binghamton. Near Schoharie junction work was noted in progress in removing gauntlet and erecting new bridge trusses. This work is to be commended. The cross ties were found very strong in life, many 7x9 inches cross section, and eight and one-half feet long, laid very close and of excellent quality. If any are decayed they are very few in number, and not easily noticed. All the cinders that could be obtained have been placed, and the line shows a much better condition than in 1894. Where new double track is laid good gravel ballast is placed. Ballast is needed as much if not more than any other item. Grading has been accomplished in many instances, and for long distances. Shoulders were noted generally well filled out. The alignment is good, and great care has been taken with this item. Adjustment of track is very good, and the curves are watched and adjusted carefully. They ride easy, and are properly elevated for the speed maintained. The spiking is very full, and great care is taken with this item. Bolts at joints were also noted very well cared for, very few missing. Great improvement in this item has been made since the last inspection. The rail joint fastenings are angle bars of four and six bolts capacity. All the new heavy rail has six bolts, and the new angle bars are heavy and strong. Old rail is fast disappearing. While it is good for its age and the heavy traffic it upholds, yet anything less than 80-pound for this division is not economical. The fences are good as a rule. Grass and weeds were noted well under control, and the right of way appeared upon day of inspection very clean and orderly its entire length. The switches are of the split point pattern, and well cared for, except locks, and it is suggested that every track foreman be made to report the switches left unlocked upon his section to the superintendent. Many were noted unlocked upon day of inspection. No one item should be watched more closely than switch locks. Safety switches should be maintained and kept locked at every siding having downward grade to main track. All angles should be blocked around switches at

head of frogs, ends of guard rail, and just back of points. The ditches were found well and carefully cleaned and deepened, particularly in wet cuts. With few exceptions the warning signs at highway grade crossings are not legal. The item of crossing plank has been given good attention, and few were found decayed or out of place. The culverts have been overhauled since the last inspection and pointed. Cattle guards should be given more attention, and where highways cross the line diagonally they should be lengthened so that stock can not jump over them. Many railroad people contend that cattle guards are not of use any way. This may be so when they are not properly made, but roadmasters should study so as to devise guards that will turn stock. As a rule guards are not long enough lengthwise the railroad. In connection with repairs, passenger stations were found well maintained as a rule. A few need paint. Drinking water should be kept constantly on hand, and windows and floors clean. The absence of shims upon bridge floors and elsewhere was noted. Iron braces at curves were noted in use to some extent. Wooden braces should not be allowed. They hold a little while the wood is sound, but when decayed and split are of no use whatever; in fact in this condition they are dangerous. Spare rail was noted up. Clearance marks were found well cared for as a rule. They should at all times be in full view, and, where of wood, sound in material. Guard rail should be placed upon all bridges and thoroughly bolted and spiked and ends blocked. All trees should be removed where close to track. The chief engineer promised that a general order would be issued to remove all trees liable to cause derailment. Telegraph poles where too close to the track should also be removed or replaced with cable. The company is to be commended for the work and betterments accomplished upon this division in the last two years. The structures, from the largest to the smallest, were noted with good floors and guard timbers and generally in good safe condition. The few leaning abutments and old stone work is also to be overhauled this year. The targets, boards, arms and posts were noted in fresh painted colors and well maintained.

Nineveh to State Line of Pennsylvania.

This line as a rule remains in the excellent condition last reported. There are now no wooden structures in the roadbed. Seventy structures upon the whole system were painted this year. The cinder ballast is very good. Grading is good. Crossing plank could be better. Some trees on right of way are too close to track. Clearance marks, while well cared for, should in every case be kept in full view. Cattle slats were noted of iron, and

good as a rule. Guard timber or tie guards should be larger on small openings. Old rail should not be allowed in the track when too short. Many very short pieces were noted. This line should all be laid with the 80-pound section. All the curves are spiraled, and ride easy. All the iron and steel structures in road looked upon day of inspection in excellent form and condition. I beams are not used upon this company's lines, and wisely so, for built riveted girders are safer in every way. Tie plates are not in use, though the near future may develop their necessity. Forty-five small openings upon the whole system have been railed over solidly and ballast placed upon top of them with stone coping at ends. Many of the items, including grading, shoulders, alignment, spiking, bolting, fences, grass and weeds, switches, ditches, culverts, cattle guards, stations, bracing and clearance marks were found in very good condition. Foot guards should be placed. Guard rail upon bridges should be laid and positively fastened. Shims were not noted, and the line and surface of track were excellent. A few decayed ties were noted, but not frequently together. Cross ties were noted generally well spaced, large, laid close, and in very strong life.

Cherry Valley Branch.

With few exceptions this line remains about the same as in 1894. There is little traffic upon it. The cross ties have been greatly bettered, and large renewals made, as suggested in last report. The spiking and bolting was also noted very good, and aside from lack of ballast and old short rail this line is in very safe condition now. The chief engineer said that the structures in the roadbed would be carefully watched and renewed as soon as needed. Some of them look too old. Stub switches should be removed. Two new milk stations were noted. Trees were noted too close to track, and should be removed. Names should be placed upon all of the passenger stations. Considerable new crossing plank was noted. Guard rails should be placed upon bridge floors. Foot guards should surely be placed. Safety or blind switches should be maintained. Highway grade crossing signs should be legal. The right of way upon day of inspection looked clean and orderly. Joints can not be kept up without ballast. Drinking water should be kept at all stations within easy reach. The right of way was noted in very orderly condition, and the grass and weeds were cut and removed.

Albany to Rouse's Point via. Mechanicville.

This line has been greatly improved since the last inspection. About 20 minor openings have been closed. Rail floors are placed,

depending upon span for number of layers. Sixty-two pound steel rail is used. One layer is placed up to 7 feet; then under the gauge rails the old rail is increased in number up to 12 feet, when two layers are placed. The masonry has all been relaid and pointed and end walls erected so as to make the whole stable and lasting. Ballast is then placed upon the rails and a solid roadbed made. Between Albany and Mechanicville there are no wooden openings. Fifteen miles of new wire fence has been erected since 1894. Eighty-pound steel rail extends from Albany to a point about three miles beyond Mechanicville. Around the whistle, ring and mile posts was noted marble paving which looks very neat, and shows attention to details. Eight miles of 80-pound steel rail have been laid north of Plattsburgh this year. The tracks in the Rouse's Point yard have been rearranged and greatly bettered. In the last five years 130 miles of 80-pound steel rail has been laid north of Fort Edward. Where ballast has been placed it is of excellent quality and quantity. Ballast is certainly a very essential item when true economy is considered. Sleeper and cross tie life was noted excellent. Ties are laid close together, are of good section and not one joint tie was found decayed. Great care has evidently been given this important item. Considerable grading has been accomplished, and several heavy fills widened. Willow trees are being experimented with along the lake to hold the bank material from being washed and eaten away. Ballast is well graded upon either side of the track for long distances. The alignment has been bettered, and much more is contemplated in the near future. Reverse curves are troublesome and costly to maintain at best. The adjustment of track is extra, particularly upon curves. All the curves where tangents will allow are spiraled, and except for the tipping of the cars one would not know that any sharp curves were to be found upon the line. The spiking and bolting of gauge rails leaves little if anything to criticise. Great care has been taken to perfect this important item. The joint fastenings are all angle bars, and these on the heavy rail were noted very strong and with ample metal. In connection with the item of joints the practice upon this company's lines of spacing the cross ties immediately when new rail is laid is commendable. Too often upon many of the roads of this State when new rail is laid the ties are not spaced for months and years afterward. The effect of this practice is to leave a great chance for derailment. The 80-pound rail wears well, is of good section and carefully cared for. The old 67-pound steel rail stands well, much of it looking very good. However, it is too light and the heavier rail is fast taking its place. Considerable change of grades has been accomplished, sags raised and summits lowered. The fences were found very well cared for, posts large and close

together. Grass and weeds are kept removed from the track, and well cut along the right of way. The switches are of the split point pattern, well bolted and spiked and in excellent condition. The guard rails opposite frogs are bolted to the gauge rail and firmly held. The points are frequently tried with crowbar to make sure that they fit tight, and that bolts are not loose. The ditches are well opened, and care is evidently taken to grade them so as to shed the water quickly. Warning signs should be legal. Crossing plank was found very well cared for. The culverts have all been overhauled and masonry pointed. The trestle landing at Fort Ticenderoga has been abandoned, and in its stead a pier has been extended into the lake and the roadbed at this point greatly bettered. A new station has been erected and modern improvements made. The cattle guards should receive more attention. The passenger stations all appeared in good state of maintenance, neat and clean. Drinking water should be kept within easy reach at all times. Shims are not used upon this line during the summer. They are removed, as they should be, when the frost leaves the ground. Steel braces were noted upon curves, and well cared for. The right of way was found upon day of inspection neat, clean and orderly. Along the lake where rock cuts occur great improvement was noted in cleaning, trimming and removing loose rock, trees and brush. This is very important, and the officials evidently appreciate the necessity of keeping all loose material under positive control. Spare rail was noted upon steel horses at frequent intervals along the line. Whistle, ring, mile posts and targets were all noted well painted and fresh in appearance. Clearance marks were noted well cared for. Safety switches are in place at every siding having downward grade to the main track. Trees liable to fall upon the track should be removed. This was promised by the chief engineer. Telegraph poles should be kept a proper distance from the track. Guard rails should be placed upon bridges. Foot guards should be placed at all switches.

Baldwin Branch.

Very little change was noted upon this branch since the last inspection. Stub switches should be replaced with those of the point pattern. With few exceptions the cross tie life was found very good upon the lake end. The rail is old and somewhat short in lengths, though still serviceable for the little traffic upon it. Ballast is needed, foot guards should be placed, and legal signs at highway grade crossings. The whistle, ring posts and targets were noted in bright paint and well maintained. The right of way appeared orderly, and the structures in roadbed were in strong condition.

Ausable Branch.

This branch has been greatly improved since the last inspection. The whole line has been laid with heavy steel rail. For this branch, 62 and 67-pound of the main line. The line has been extended two and a half miles, and a new passenger station erected at the end. Two large trestles have been filled. All of the openings in the roadbed are iron down to four foot spans. Ballast is needed, though the sandy material now utilized is well graded and the ditches well cared for and shoulders well widened. Trees upon the right of way too close to the track are to be removed. Some new siding was noted since 1894. Signs are of the diamond form, but should be legal. Safety switches should be placed and kept locked. The cross-ties were noted in strong life, well spiked and in good condition. The line and surface of track was found very good, and bolts ample in number and well tightened. Wooden cattle slats were noted and well cared for. The posts, signs and targets along the line were found in bright color and strong. What was formerly Ausable station is now known as Roger station. All of the items, such as fences, crossing plank, cross fences and wings were found well maintained. This road, compared with two years ago, is now in excellent condition. All of the structural floors and parts were found strong, in good life and recently overhauled.

Caldwell Branch.

Considerable improvement was noted upon this line. The cross tie life is very good. The principal bridges have been reinforced, new floors placed and generally overhauled. Three new electric gongs and a new station were noticed through Glens Falls. The rail consists of 62-pound steel, about 13 years old, and 67-pound, 8 years old. Telegraph poles and trees were noted too close to track for safety. One mile of new siding was noted. Guard-rail and foot-guards should be placed on bridges. There are no wooden stringer bridges upon this branch. A few legal highway crossing signs were noted, but all should be. More attention should be paid to keeping switches locked when not in use. Most of the items, including whistle, ring and mile posts, targets, fences, crossing plank and ditches were found in very good condition. The stub switches remaining should be removed. This line should receive ballast material. It is an important line, and in the summer very much used. Grass and weeds were found well under control, and the right of way generally in orderly condition. The passenger stations are very well maintained.

Chazy Junction to Province Line.

This line is better maintained than when last inspected. The traffic is small; cross ties were noted much improved since 1894; ballast should be placed; stub switches should be removed; new heavier rail should be placed. The roadbed is nicely graded and the ditches kept open, deep and well graded. Considering the short old rail, meagre ballast and stub switches, this line is very fair. The structures in the roadbed have been improved and new material was noted. Where possible small openings should be closed; foot-guards, legal signs for highway crossings, guard-rail and blind switches should be placed. Passenger stations were found clean, neat and in fair repair. Bolts and spiking have received proper attention.

Whitehall to Vermont State Line.

This line has also been improved since 1894. One arch and two stone box culverts have been erected since 1894. There are no wooden stringer openings; ballast should be placed without delay; the cross-tie life was noted very good, close together and of large section as a rule; bolts and spiking very good; trees and telegraph poles should be removed, as many were noted liable to cause derailment. Cattle-guards and cross-fences were found good and proper attention given to them. Guard-rail should be placed upon bridge floors, and foot-guards should be placed. Safety switches should also be maintained. The structures were found well cared for, and all appeared in good form upon day of inspection.

Eagle Bridge and Washington Branch.

This line has not been bettered materially. Ordinary repairs and renewals have been kept up, and, with few exceptions, it will average well. More ballast could be placed; cross-tie life was found very good; the traffic is not heavy; fences were found good; the rail is 62-pound steel, well bolted and spiked; the line and surface, considering rail, is very good; painters were noted at work upon the various structures; guard-rail and foot-guards should be placed; safety switches should be kept locked; only a few of the minor openings have wooden stringers; the structures, generally, were found with strong decks and in good form and recently overhauled; point switches prevail, and they were found well maintained; bolts at points should be watched carefully; a new station was noted at Granville since the last inspection; trees were noted too close to the track; highway signs should be legal; angle bars were noted for quite a distance, being placed instead of flat bars; some attention should be given crossing plank, though many were noted strong and firmly bedded; the ditches,

fences, whistle, ring and mile posts, shoulders, line and surface were noted well attended to; the passenger stations were found in fair condition, and some newly painted.

Coons Junction to Delanson.

This 30 miles of road has been greatly improved; fifteen miles of 80-pound steel rail has been laid this year; a new bridge over the Champlain canal was noted; two iron viaducts have been removed, fills made and arch culverts placed; this important work was accomplished last year; much credit is due this company for these betterments; old cement pipe under roadbed was, upon day of inspection, being removed and iron pipe inserted in its stead; the structures were all found in good form and life of material; however, guard-rails should be placed upon floors and foot-guards inserted at all points. The various items, including bolting, spiking, fences, ditches, crossing plank, posts, line and surface, curve adjustment, shoulders, targets and cross ties were found very good; ballast is needed badly. This line has heavy traffic upon it and should be well ballasted. The passenger stations were found generally in good repair, neat and clean; trees were found too close to track; a few legal signs were noted at highway crossings. The principal criticism upon this line is poor ballast.

Glenville to Ballston.

This road is said to be one of the oldest in the State, having been originally operated in 1832. There are no wooden stringers. Ordinary repairs and maintenance has been the rule since 1894. Trees were noted too close to track. Cross ties were found very strong, and the rail, 21 years old, still remains, considering its age, fair. However, it should be replaced with heavier rail. Considerable speed is made over the road. The old rail has been cut until, while it is not unsafe, it is too near the limit. There are no grades to speak of, and the alignment is very easy. Ballast would greatly assist in keeping the track in proper condition. The various minor items were noted well in hand, and great care is given each. The structures were noted safe and in good form. The passenger stations, while old, were found neat and clean. Everywhere upon this company's lines is evidenced a desire to attend to minor details. Constant watchfulness and ample material is the rule. The scarcity of shims was noted upon this line also.

Waterford Junction to Troy.

This line is five miles long, laid with 67-pound steel rail, and was found in good condition. A new station was noted at Water-

ford, and the location greatly bettered. Only one wooden stringer opening was noted. Trees should be removed when found too close to the track; point switches abound; the iron bridging was noted very good, and all parts in good form; bolts should be kept in at the joint near head of frogs; a few were noted out; the flood-way trestle was noted safe upon day of inspection, but should be overhauled next year; the minor items were found good as a close rule.

Note.—The transit upon which the inspection was made is fitted up with an electric head-light. It is an arc light, operated by a dynamo located upon the top of the boiler. Steam is fed through an inch pipe. The track can be clearly seen for 3,000 or 4,000 feet. The effect at highway grade-crossings enhances safety. The engineman can see plainly, upon tangents, far enough ahead to stop if obstructions are observed. Upon curves, it would seem an attachment could easily be devised to turn the light with the curvature. The objections to the contrivance, viz., inconvenience while passing upon double tracks and while standing in yards, do not seem to offset the benefits at crossings and in the open. The apparatus in question has been in use three months, without any repairs or trouble in operation.

DELAWARE, LACKAWANNA AND WESTERN RAILROAD.

Main Line.

(Inspected August 24, 1896.)

This property has been considerably improved since the last inspection. The following items, however, need attention: Switch targets should be kept in proper alignment; cracked pedestals should be given attention; sound stone should replace all of the cracked and broken ones; this is very important, for the shock and jar of every passage over a bridge is carried direct to the pedestals; telegraph poles should not be allowed to stand so close to the tracks; the highway warning signs are not legal; the sign should span the highway, have letters nine inches high and the words "Railroad crossing," "Look out for the cars," painted upon them; many were noted hidden from plain view; the letters are too small; many of them have the words "Look out for the locomotive;" trees should not be allowed to stand too close to the tracks; some were noticed just off the right of way, while the bulk of the top leaned toward the tracks; an effort should be made to buy those on private land, within a few feet of the line fence, as the law permits; it is suggested that every

tree liable to cause derailment be removed; mile posts should be erected along the line; there is no block system upon this line; station agents should always, while on duty, wear badge or uniform; windows should be kept clean and each interior neat and orderly; cross ties should be spaced properly so that each rail joint will bear evenly; the joints are suspended, the angle bars resting upon two ties properly; not enough care is taken to have proper bearing and number of spike; too much care can not be taken to have each rail fully and positively spiked; great speed is daily maintained upon this line, and every detail should be attended to; negligence in minor items many times cause the greatest harm; spare rail should be kept at frequent intervals along the line and, when used, others should take their place without delay; crossing plank should all be kept in good condition; the frogs should be blocked; great care should be given to this item; also at ends of guard-rails at structures and guard-rails at switches; 14 facing switches have been moved since 1894; the alignment of track is very good, as is also the adjustment; the long tangents and flat curves admit of great speed; ballast was noted in large quantities; the roadbed, track, ditches, switches, fences and shoulders were noted in prime condition; the iron and steel structures in the roadbed were found in excellent condition; considerable painting has been done, and constant care and attention are given them; the masonry was noted in very good state of preservation; guard-rails should be placed at all openings down to 10-foot spans; 80-pound steel rail is being laid as previously reported, and it appears in good condition; the electric gongs at grade crossings, of which there are a great number, work well and add much to safety in crossing the tracks; cattle-guards are being watched carefully and as fast as possible are being closed up; all of the minor openings have I beams firmly braced and bolted; near Elmira is a trestle that should be renewed without delay; the officials say this will be done soon.

Utica Division.

Considerable improvement was noted upon this division since the last report. The curves, of which there are a great many, have recently been spiraled and greatly improved. The shock upon taking and leaving them has been reduced to a minimum. Attention is called to the following items: Trees should not stand close to the track; abutments, composed of small unsound stone, open and shaky, should be relaid with large and durable stone; spare rails should be kept on brackets; many were noted missing; near Clayville is a tree close to the track on a side hill and partly undermined, which should be removed at once; some of the old

station buildings should be renewed; the highway signs are not legal; telegraph poles were noted too close to the track; the guard-rails on structural floors, frogs, and guard-rail at switches should be blocked; shims should not be allowed under rail on bridge floors; sills at trestles should not be covered; it precludes inspection, and rots the timber very quickly; spare rail should be kept in place and, when one is used, care should be taken to replace it with another; mile posts should be erected; ends of culverts should be kept in good repair; also parapet walls and the like; shoulders, while generally very well filled out, need attention in many instances; great care should be given to proper spiking at joints; attention should be given to keeping cattle slats firm and in good repair; some bolts in rail joints were noted needing attention; crossing plank should also be looked after; broken and cracked angle bars should not be allowed to remain; many were noted broken and cracked; electric gongs at highway crossings are in use and give good satisfaction; switch targets should be kept in good alignment and painted often. This division has been greatly bettered, since the last inspection, in the matter of bridges, ballast and rail; the ditches were noted open and well graded as a rule; wooden stringers are rapidly disappearing and steel I beams and built beams are being placed upon minor openings; cast-iron pipe is also being placed where feasible, and openings filled; the rail is generally strong in life and considerable new and heavy rail is being laid; the truss bridges were all found of iron or steel and in very good form and condition; there are a number of these, and more are to be erected in the near future. At Sherburne, compressed air is used to operate an electric gong at crossing; the arrangement is an excellent one; thus far it is experimental, but its positive action and simplicity recommends it. The ballast upon this division is very good, and large quantities have been placed; it is gravel and of very good size; the cross-ties were noted in very strong life; "cedars" are being removed, and will not be used again; the ties are large, close together and of good length; the right of way is kept orderly and grass and weeds were noted well in hand; some of the minor openings were found in poor condition, but new material will be placed at once; where new masonry has been constructed great care has been taken to place large, sound stone upon extra foundation.

Owego to Ithaca.

This line has been somewhat improved since 1894. Eleven thousand cross-ties, mostly oak and chestnut, have been placed upon this 34 miles of road this year; about two miles of gravel ballast has been placed since the last inspection; 250 tons of 60-

pound rail have recently been laid; three passenger and one freight train, each way, daily accommodates the business upon this single-track road; there are 26 men on the main track; generally the cross-ties were noted in strong life, though many were found needing renewal; the ballast material is of good size, and the road, with little exception, is in good surface for amount of traffic; the shoulders were noted fairly full; alignment is very good for the attention paid; the adjustment of curves should receive more attention; spiking and bolting was found fairly well attended to; great care should be given these very important items, particularly upon bridge floors; rail-joint fastenings should be strictly looked after, and new sound plates should be placed immediately upon finding any broken or cracked; the fences were noted up, and in good repair as a close rule; this important item should be strictly watched; grass and weeds were noted too thick upon the track in places; the growth this year has been very heavy, but ample track force can keep this troublesome growth down; cross-ties suffer greatly by allowing grass and weeds to grow between them, and decay quickly; the switches were noted well cared for as a rule; spiking should be full, bolts tight, ample in number and the points always kept in proper condition and bearing; there should be foot-guards at all switches; the ditches were noted needing more attention; no other item is more important than this in keeping the roadbed in proper shape; the warning signs at highway grade crossings are not legal; to warn those traveling upon the highway they should be so placed that they can at all times be plainly seen; they are frequently found hidden from plain view by trees, bushes and buildings; the crossing plank generally were noted well cared for, though many were found needing attention; stone culverts should receive constant attention; when washed out the structure should be replaced and completed without delay; patched-up temporary trestles are a menace to public safety; cattle-guards should be kept in good repair, and should, where highways are crossed diagonally, be made longer; many are too narrow at right angles to the highway; the passenger stations were found generally in good state of maintenance; water should always be kept on hand for fire protection and for drinking purposes; windows and floors should be kept clean; shims should not be allowed under the rail upon any part of the road, particularly upon bridge or trestle floors; carelessness and false economy alone keep them in during the warm part of the year; the right of way should be kept free from decayed ties, trees and brush; spare rails should be kept at close intervals along the line; there should be clearance marks at every siding where trains pass; safety switches were noted at all sidings having downward grade to the main track;

telegraph poles should not be allowed to stand too close to the track; every element of danger should be avoided where possible; bridges and trestles should have guard-rail thoroughly spiked and bolted, so as to keep wheels upon floors.

Binghamton, Syracuse and Oswego Division.

This line continues to be improved each year, and since the last inspection considerable betterment was noted. Twelve miles of excellent gravel ballast has been placed, and the track raised in many places. Twelve miles of 80-pound steel rail have also been laid. This work was done last fall. Twenty-three miles have been laid since 1894. Sixty thousand oak, chestnut and yellow pine cross ties have been recently placed. Four miles of sidings have been laid in various places since the last inspection. All spans consist of steel and iron. Many of the wooden stringers have been removed in the last two years. Some work is necessary in repairing stonework, but the abutments and piers were found generally in first-class condition. Great care should be taken to make all approaches to bridges, trestles and waterways firm and ample in width. Four openings have been closed and iron pipe inserted; also tile pipe. Many openings have been narrowed. Telegraph poles were noted too close to the track. Safety switches were noted on sidings having downward grade to the main track. Clearance marks are not in use, but should be. There are 28 electric gongs at grade crossings between Binghamton and Syracuse, all in good working order. The track force is not meagre, and the road shows the effect of having men enough. Crossing plank in some instances need attention, though as a rule the various items were noted well cared for all along the line. Short rail should not be allowed. Mile posts and boards were noted up and well painted. The passenger stations were found painted and in good state of repair with very few exceptions. This line should be relined with instrument, and the curves spiraled. The alignment and adjustment of track is now as good as the ordinary means will allow, but the instrument will find many places needing immediate attention. The highway signs are not legal. Care should be taken upon the short ends of skewed openings to carry the floor systems far enough to make safe approaches. The water tank at Preble has not been moved, and the conditions at this point are the same as at the time of the recent wreck. This tank will be moved to the opposite side of the tracks without delay. Five new creameries have been erected between Binghamton and Oswego since the last inspection. Vitrified tile pipe is utilized under high embankments. The frost will soon crack and break off the ends and necessitate renewing with more per-

manent material, such as stone or iron. Where the ends of tile pipe culverts are protected from frost and ice and the pressure upon them is not too much they will stand fairly well, but in this climate it is poor economy to attempt their use. The floors upon the small openings in the roadbed should be renewed without delay. This was promised before winter. This line could and should be greatly straightened at certain places. Trees should be removed where found close enough to fall upon the track. They should, under no condition, be allowed to imperil the lives of passengers and employes. The bridge over Seneca river remains as previously reported. It may stand for some time, but should be overhauled and piers made firm. An important structure like this should not be allowed to become dangerous or even approach an unsafe condition. The section foremen should be made to keep spikes and bolts in, and not allow angle-bars, braces and the like to remain when cracked and broken.

DUNKIRK, ALLEGHENY VALLEY AND PITTSBURG RAILROAD.

(Inspected August 18, 1896.)

This property has been improved in some respects since the last inspection, though there are many items still neglected. Of 91 miles of road, 42 are in this State. Only 5,000 cross ties have been placed this year. Many were noted decayed, and particularly at joints. Traffic is light upon this line at present, but this is no excuse for scarce bolts and spikes. Many of the joints were found not properly bolted, and spiked quite scanty. There has been no ballast placed since the last inspection, and many stretches were noted needing it. The highway crossing signs are new since 1894, but the letters are not nine inches high, and the form of signs does not conform with section 33 of the Railroad Law. Very little, if any, grading has been accomplished, and this item should, with the others, receive immediate attention. The shoulders were noted slack in many places. The line and surface is greatly neglected, even for a road with little traffic. The rail is made up of six or seven kinds, nearly all needing attention. About two miles of 60-pound steel rail (seconds) was laid since 1894. There can be little excuse for not properly spiking on bridge floors. The joint fastenings are mostly angle bars, and a large part of the rail laid with square joints. The fences, while given some attention, are not cared for as they should be, and neglect is apparent in many places. Grass and weeds were being cut and removed on day of inspection. Four men for every six miles try to keep the road in safe condition. The switches are all of the split point pattern and fairly cared for. Joints at frogs should be kept full bolted and spiked. A speed of 30 miles and upwards

is maintained. The ditches have received much care. New crossing plank were noted in some instances, though not enough attention is paid to this item. Cattle guards are neglected, and something should be done in this particular to turn stock at highways. The passenger stations generally are not well maintained. Some of them are in very poor condition. Laona station is small and ticket sales per week meager, but the patrons of the road deserve better accommodations. The plastering is falling down, sills decayed, shingles decayed, doors cracked and the panels broken. No drinking water in the waiting room, and generally, this station needs attention. Drinking water should be always kept at hand. Many of the stations were noted in this neglected condition. Fredonia station needs attention, window lights are needed and the floor and windows should be kept clean. Lilly Dale station is an exception, it being comparatively new. At Cassadaga station the roof leaks, plaster is falling, and windows should be kept clean. Shims were noted in, and have been in since last winter or longer. This make-shift item should not be allowed after the frost has left the ground. Braces were found missing and the curves were noted in very poor condition. This road should be relined with instrument at once, and the curves placed in proper form or the speed should be lessened one-half. Low joints were numerous. The right of way should be cleaned up. Spare rails should be kept at mile posts. New mile posts and whistle and ring boards were noted since last inspection. Clearance marks should be maintained at sidings and spurs. Trains do not run at night. Derailing or blind switches should be maintained and given attention. Foot guards should be placed at all angles. Trees standing close enough to the track to cause derailment should be removed at once. Water should be kept at stations as a protection against fire, and also upon bridges and trestles. Ten thousand feet of new siding had been laid at different places since 1894. The stone culverts under embankments should receive attention. Parapet walls were noted neglected, and masonry falling apart. The switch targets are of very poor design, and too small. This item with the others mentioned above should be given immediate attention. The road was built in 1871 and has evidently been neglected for a number of years. Short pieces of rail should be removed. Twenty-five openings have been piped recently. Broken and cracked angle bars should be replaced with new ones at once. Near mile post 67 was noted a spike inserted in bolt hole. Bolts were noted very loose. One side of the Fort Hill under crossing and culvert should receive immediate attention. A wash-out at this point would cause great damage. The deck truss bridge over Canada Way is too good a structure to be neglected, the ends should be kept clean and constant attention

given. Many of the cattle passes and small openings should be overhauled at once. The low trestle near Lilly Dale is to be renewed. Timber is now on the ground. Water and guard rails should also be placed. Next north is a low trestle (sink hole) minus guard timber, guard rail and water for fire protection which should be filled. Covered sills were noted frequently. This is a very poor practice, it precludes proper inspection and allows the timber to decay very rapidly. A derailed truck would not cross safely. The minor structures are very much neglected. Floor ties are not spaced properly. Tie guards missing, rail not well spiked and approaches very poor. One deck lattice girder bridge was noted with rail not spiked safely, and the metal greatly in need of paint. One cattle pass was noted with two rail stringers under each rail, there should be three. Sagging, rotten and falling away and in need of general repairs. Ties were noticed slewed around, and bridge floors very properly maintained. Guard rail should be placed upon the structures at once. This road should receive proper attention and the various items should not be neglected in the future.

GRAND TRUNK RAILROAD.

(Inspected June 17, 1896.)

This 22 miles of single-track road lies between Fort Covington and Massena Springs, and has been considerably improved since the last inspection in 1893. For the small amount of traffic (only one train each way daily) it is kept in good condition. All of the ties have been virtually renewed in the last two years. This company is wise and truly economical in keeping the ties sound and in strong life. The rail is all 56-pound steel, laid with square joints. It is in fair life yet, though it would subserve true economy if heavier were used. The wooden truss bridges and trestles were found in very fair life of timber. The wooden truss bridge near Covington has a few cast-iron shoes at panel joints cracked and broken. The rods are in good adjustment, and guard-rail were noted in place. Trees were noted too close to the track. Shims should be removed as soon as the frost is out of the ground. Two new spans of through lattice bridging over the St. Regis river, erected this season, were noted of good design, ample metal and supported by good masonry. The old wooden bridge that formerly spanned this river had outlived its usefulness. At mile post 92, false work is being erected preparatory to putting in a new steel deck plate girder bridge. It was a Howe truss and too old. Guard-rails should be placed upon the bridges and trestles. Foot-guards should be kept well in repair and renewal. This part of the line

is composed mostly of tangents, the few curves being very slight. The ballast material is too fine. The new platform at the Bombay Junction station being erected upon day of inspection is poor economy. The spaces should be filled in and a top dressing of fine broken stone or small gravel placed for permanency. Wood is cheap in this section of the State, but the constant cost of renewal every few years makes it costly construction. The grass and weeds are being cut along the right of way, and should be kept down. The fences were found up and in good repair. The cattle-passes and other minor openings were noted in safe life. The cribbing under the pony truss bridge should be attended to.

GREENWICH AND JOHNSONVILLE RAILROAD.

(Inspected August 6, 1895.)

The suggestions made at last inspection as regards renewing the smaller openings with masonry and steel I beams have been carried out, and these structures are now in excellent condition. Cast-iron pipe has also been utilized considerably, and a number of very small openings closed up and made secure. Over 1,000 carloads of gravel ballast have been placed since the last inspection. This, with the steel I beams, has greatly improved the road. Among other improvements the passenger coaches have been overhauled and refurnished. A new metallic circuit telephone has been placed on the whole line for train orders and the like, extending the yard at Greenwich 200 feet, making it large enough for four tracks, now accommodating 75 cars. The renewal of ties this year has been quite large, though more are needed to place this road in first-class order in this respect. New point switches will be placed within six weeks. One or two have been placed so far. Two miles of fence have been erected in good position since 1893. New crossing plank are needed in a number of places. Some means should be employed to bend the flat rail and over-curved rail on curves. Some of the rails on the curves are quite straight, and the consequent jar and shock is painfully noticeable. More care should be taken in bolting and spiking at joints. Joint fastenings were noted with only two spikes, and some with only two bolts on one side of joint and none upon the other. Loose bolts in large numbers were also noted. Loose spikes were noticed frequently, and the general appearance of track indicated neglect. More men should be kept upon the track and roadbed. Eight men, including a foreman, are only allowed in the winter, and twelve men, including a foreman, in the summer. This force is expected to keep everything in order. It is suggested that extra men be employed so as to place the road in safe and proper condition before winter. The locomotives have been overhauled and

placed in good order. The highway warning signs need paint badly. This road should be properly drained. The ditches should be opened and graded. The company owns the right to obtain very good gravel ballast alongside the road. This material should be utilized in raising the track properly and "shouldering out." The passenger stations are generally in fair condition. The station platform at Greenwich is too high, and should be lowered. A new steel turn-table was noted at Greenwich, 50 feet long and of good design. The few wooden structures yet remaining are to be renewed in iron or steel very shortly. One or two wooden structures were noted very weak. The substructures recently constructed are of small stone which should have been large and heavy. The Howe trusses at both the Johnsonville and Greenwich ends have been overhauled and closely inspected, rods tightened, shoes renewed and many repairs made. These bridges, for present use, are ample in timber and metal and also in proportions, but the great danger is not so much from overloading the trusses, assuming them still sound, as from sudden failure. The masonry, if it should become unsteady, with the bridges at their present age, would hasten failure. The timber has been bored and examined, as well as the bridgeman could, and found in good life. Notwithstanding this, new steel bridges should be erected at an early day.

KEESEVILLE, AUSABLE CHASM AND LAKE CHAMPLAIN RAILROAD.

(Inspected August 13, 1895.)

This road is now operated separately and remains about in the same condition as when inspected the last time in 1893. Considerable repairs have been made in a general sense, as blocking under trestles and the like. Enough attention has not been paid to the track and rails. About one mile of old iron rail still remains, supported as well as old iron chairs can. As an engine passes over them the rails rattle and was noted quite loose. Spikes and bolts were noted loose and missing. Some 20 tons of 60-pound steel rail has been placed. The old iron rail should be removed at once. Four men try to keep this road in strong condition. The ballast material is sand and very shifty. The trees next the rail spoken of in last report still remain. These trees, at least three of them, should be removed at once. They may any day, be the cause of loss of life. The ties were found in very fair condition as a rule, though some were noted too old, and decayed. Your Inspector would suggest that the rail on every one of the wooden structures be spiked on every tie. Some of the smaller structures have been overhauled and some work done on the larger ones. The trestles should be filled without delay; steel rail was noted on the curves.

This company is trying to improve its property gradually, though it would seem more should be accomplished each year. All of the mud sills should be uncovered; many of them are out of sight, and inspection of them impossible without pick and shovel. The various railroad companies throughout the State are satisfied upon this question, and all sills are now being kept free from constant change in moisture and dryness, which rots the wood very fast, and is very dangerous to the structure as a whole. This work of uncovering the sills should be accomplished at once, where the iron and steel rails join, the joints are insecure and not properly bolted. This work should be attended to at once. The old rail should be bored and bolts inserted or braces used. The joint ties are not properly spaced to have good bearing. The chasm viaduct should be carefully attended to; new guard timbers or tie guards, should be placed, and the trestles on either end, overhauled. Bolts were noted missing on these very important structures, and the ties on them are not spiked as often as safety demands. The stations should have names placed upon them. The signs at highway crossings were noted very fair, and the stations neat and orderly.

KINGS COUNTY ELEVATED RAILROAD.

(Inspected January 16, 1896.)

This road extends in the city of Brooklyn from the Brooklyn bridge through the city's streets about eight and one-half miles. It is double-tracked and 60 and 70-pound per lineal yard steel rail prevails. The construction of this road was begun in February, 1887, and was first operated about April 25, 1888. Three miles were first completed to Nostrand avenue. The next section was built to the old city line, and was operated in the fall of 1888. This portion is two and one-half miles long. The next and last portion constructed extends to the new city line, and is about three miles in length; it was opened in July, 1893. Seventy-pound steel rails were laid upon this section. The structure is upheld by Phoenix columns, resting upon brick and concrete foundation piers. The longitudinal trusses are of the deck lattice style, varying somewhat in the web members. Deck lattice girders rest upon the columns, at right angles to the line of the road and upon these rest the longitudinal girders referred to above. Iron was used in the first construction, but open hearth steel was utilized in the last section erected. Generally, this structure, from inspection appears amply strong, of good material and well put together. The cross ties, guard timbers, guard rails, track rails, spiking, bolts, platforms, stations, girders and columns were all found in good form and well dimensioned. White oak was found in use to some extent, but yellow pine is fast taking

its place. It is very difficult to get good white oak. Yellow pine does not decay at the heart first, leaving a shell upon the outside, as oak does, and is found to have better lasting qualities, holds spikes and bolts better than oak, and, in fact, is cheaper in the end. The running guard timbers on either side of the track rails have to be frequently bolted to the cross ties beneath, and your Inspector was pleased to note the recent change from countersunk bolts covered flush to top of the timbers with cement for round iron heads, flush with top. The old construction was found poor and costly. The cement was designed to keep water from the nuts and thread, but the frost and "timber check" loosened the cement and allowed water to reach the metal. These guard timbers are spaced four inches from the gauge line of rail on the inside and six inches from it on the outside; they are six by eight inches in section. The cross ties are six by eight inches on the four-girder section, eight by nine inches on the three-girder structure and eight by eight inches on the Fulton extension. The guard rails on curves are bolted to the track in very good form and amply strong. The rail upon the whole road was found in good condition; some of it, however, a little worn, but quite serviceable yet. Spiking was found quite full with few exceptions, and these were promised immediate attention. The bars at rail joints were found well bolted with very few exceptions. Too much care can not be taken in having every bolt and spike well in. The heaviest grade was found from the bridge station to the ferry. This is $3\frac{1}{2}$ per cent., or about 185 feet per mile. This grade descends toward the ferry, yet cars are handled on it with little trouble. There are 44 engines, 145 passengers cars, 6 flat cars and 2 small push cars. Eighteen men and a foreman look after the track and roadway. There are no facing switches. Cross-overs occur frequently and all yard switch movements are controlled by interlocking plants. The fog signal system is used from November 1 to May 1, and works satisfactorily. The block signal system upon this road is excellent. Connections are so made that all station agents are instantly made aware of any wreck, accident or block at any point on the line. There are 34 stations, well cared for, neat and clean. Water is kept for fire protection, toilet and drinking purposes. Sittings were found ample. Repairs are made often and roofs, conductor-pipes, painting, planking and the like were found well in hand. Cross ties were noted spaced, as a rule, 16 inches center to center. Only one serious accident has occurred since the opening of the road. Hand, vacuum and steam brakes are in use. Fourteen miles per hour is the speed maintained, including stops, and five-minute intervals between trains. All cars are heated by steam. Upon the three and one-half per cent. grade referred to above is a twenty-degree curve. Strict attention should be given by this com-

pany to keeping the metal structure well coated with paint. Four and one-half miles of it was painted three years ago. Considerable needs paint now. If the surface is not scraped, steel brushed and properly prepared to receive the paint little good can result from coating. Waste, paper and all inflammable material should be kept carefully removed from the structure. Great care should be taken to keep the lower chords and bearing points free from cinders, dust, etc. The officials promised your Inspector that this important item would receive proper attention in the future. The maximum height of this road is 28 feet from base of rail to pavement. The officials say that up to 1892 there had been a steady increase in traffic, averaging about 10 per cent. per year. Then came a 30 per cent. drop on account of the trolley lines. At present it is said the business of the road is gradually increasing. The rails are staggered, as are the guard timbers. This bond forms good, lateral strength, and each track is, therefore, continuous in its parts. The switch targets are soon to be painted. This is an important item. This company has quite extensive elevated shops at Alabama avenue. All repairing, painting, etc., for the entire equipment is attended to there. The shops are steam-heated and well arranged. Coaling plants were also noted, well arranged for the amount of coal used. New steel bumpers at all dead ends are being erected instead of the old wooden ones. The sub-structures have stood very well, only one having settled. The alignment of columns, girders and rails were noted very good; also the adjustment of each. The riveting was noted carefully where possible, and all found strong and well in place. The spans of the longitudinal girders vary somewhat, but average nearly 50 feet. The whole structure appears well-proportioned and does not appear weak at any point. Some vibration and lateral movement was noted at points, but not excessive. The lateral bracing appears well designed and strong. The new elevated work at the bridge-end for transfer and to meet the increased traffic is nearly completed. The connection with the Brighton Beach R. R. over the Long Island R. R. is expected to be completed by next May.

LAKE CHAMPLAIN AND MORIAH RAILROAD.

(Inspected August 12, 1895.)

This road has been closed for about 15 months owing to condition of iron and steel trade. Some 6,000 ties have been placed this year, and more should be; the track force is too small and should be increased to properly place the road in safe condition; many bolts were noted loose and missing; this should not be allowed, particularly on such a road, with its steep grades and curves; the switches should be kept locked while not in use; the practice of

leaving them unlocked is dangerous; the officials assured your Inspector this practice would be discontinued; the stub switches remain as previously reported; no attempt has been made to remove them; many poor and unsound ties were noted; the ditches need cleaning out badly; all of the iron bridges have been painted and rivets tightened since last inspection, but the iron trusses have not been strengthened; some of the small openings have been filled and covered on top; the guard-rails at switches are bolted to main track rail; the open cattle-guards should be filled and slats placed with good cross fences and wings; on top of the mountain, ties are particularly needed; the rail upon this road is old, much worn and shortened; new rail should be laid the entire length of this road and the present rail utilized for replacing siding rail, which is very poor; 70-pound rail or heavier should be laid without delay; the new branch, constructed recently and spoken of in the last report, is not in use; quartz is largely used for ballast; this tailing material is fairly good, though in fills it washes badly after heavy rains; not enough care is taken in many of the items of permanent maintenance, and your Inspector would suggest more track men immediately.

LEHIGH VALLEY RAILROAD.

Main Line.

(Inspected June 25, 1896.)

Considerable improvement was noted on this line since the last inspection; cinders are being placed in large quantities for ballast and give satisfaction; the ties were found closely laid, in strong life and of large section; the mitered rail joints have not given the satisfaction expected, and all new rail will be square joints; the trouble with the beveled rail seemed to be liability to break at the second bolt from the joint; this was found particularly so on the Seneca division; this division was laid in winter, and under very trying circumstances; the line and surface, upon days of inspection, were found good; the adjustment of curves was also satisfactory; very few low joints were noted between Geneva and Buffalo; this road, having, as it does, very easy grades, long tangents and easy curves, is susceptible of great speed; the structures in the roadbed were found in the same excellent condition and form as in 1894; there is little to criticise along the line; facing switches are scarce, and all the switches were found well cared for and in good working order; trees standing close enough to cause derailment, either from high winds or being struck or shattered by lightning, should be removed; this is an element of danger that should surely be eliminated; the bolt nuts upon the inside of rails

are still thought very well of; the track walker, as he patrols the tracks, can see and attend to them easier and with greater certainty than where placed upon the outside. The argument advanced by many, that where placed inside, the flanges of derailed wheels shear the bolts easier and cause greater damage, is hardly tenable; the greater chance would seem to be where the nuts are upon the outside; spare rails were noted up along the line at frequent intervals; wooden braces should not be allowed; they can not be relied upon, have no material strength and only make matters worse if derailment occurs; the spikes that hold them in place are not over half length in the tie and consequently offer little, if any resistance; the ditching was noted well attended to as a rule; clearance marks at switches were up and well painted; this very important item should be more generally looked after upon the roads of this State; the bridge floors were noted, as a rule, with spike in every tie; a few of the floor systems were found not properly spiked; it should be remembered that rail can not be given too much attention upon bridge floors; angle bars should also be full spiked; joint bolts were found well in, in fact, this item was noted exceedingly well cared for; shims were found, to some extent along the line; there can be no excuse for leaving shims in after the frost has left the ground, if proper track force is allowed and ballast material at hand; this troublesome and dangerous makeshift is often the cause of derailment; two highway grade crossings have been eliminated between Geneva and Van Etten Junction since the last inspection; the right of way was found very free from track debris, brush and weeds; grass was being cut upon days of inspection; the excellent passenger stations remain in the same condition as before; crossing plank were found well cared for as a rule, though places were noted needing attention; switches on the main line should be kept locked at all times when not in use.

Camden to Elmira (Old E. C. & N. R. R.)

This single track line, formerly known as the Elmira, Cortland and Northern, is now owned by the Lehigh Valley; the change took place about the 1st of March, 1896. Many betterments have been made and more are to follow. This property had been allowed to run down in many respects. The track force has been increased 20 per cent. Sixty thousand ties have been ordered and 48,000 received. The work of renewing is being pushed. Three miles of 70-pound steel rail have been laid this season. Six miles of woven-wire fencing have been erected. Thirty sets of pine switch timber are ordered. Monthly requisitions are to be made of the various items necessary to place this road in good, safe condition. Among

other items to be placed are 190 whistle and ring boards, 24 highway grade crossing signs, 200 clearance posts, 24 frogs, 14 point switches and 10 sets of steel cattle-guards. Thirty-four train order semaphores are ordered, and will be in place soon, which means that every telegraph station will be fitted out. While much has been done since the new ownership, considerable more is necessary to make the road fairly safe. The rail should be fully spiked and bolted; ballast should be forthcoming; shoulders should be filled out; crossing plank renewed; grass and weeds cleared from track; wooden braces, and shims removed; water placed in barrels at trestles; trees cut down that stand too close to track; stub switches replaced by split points. Passenger stations painted, repaired and renewed; short rail removed, and switch targets and lights placed at least six feet above the rail. All this is promised in the near future. The structures in the roadbed are very poor as a rule. There are 254 on 139 miles of road. Many should be filled and closed up. Cast-iron pipe should be used freely. Immediate attention should be given to many of the trestles, cattle-passes and waterway structures. Decay in many instances has reached beyond the safe limit. All sills that are covered should at once be placed high and dry upon good blocking or, better still, stone foundation. Timber should not be allowed under the surface unless known to be subject to constant moisture.

State Line to Fair Haven.

This line is single track, steel rail, and is being improved at present. Among the betterments to be placed this season are the following: Twenty-two fixed train-order signals, 33,000 cross ties, 28,000 switch ties, 1½ miles of woven-wire fencing, 44 split switches, 63 automatic switchstands, 19 frogs, 1,450 angle-splices, 96 cattle-guards, 2,300 bridge ties, 220 tons of 70-pound steel rail, 100 water barrels, 74 derailing switches, two highway crossing gates, 310,000 feet (board measure) oak and yellow pine, 124,664 feet (board measure) hemlock, for crossings, etc.; 80,000 feet (board measure) pine, for stations. A new station has been erected at Flemingville since last inspection, and 90 openings have been filled on this line and the Auburn and Ithaca Branch. Considerable cast-iron pipe has been placed to fill wooden culverts. Trees should be cut down and removed wherever found standing close enough to cause danger of derailment. Great care should be exercised in keeping spikes in in ample numbers. Many were noted missing. The passenger stations were found generally neat and clean; some were noted needing minor repairs. Sills were noted covered in many instances. All parts of a wooden structure should be open to inspection without the use of pickax and shovel.

The cross ties were noted in very fair condition, of good section and close together. Those much decayed are to be removed within a month. The ballast material, though not extra, is very fair for long stretches. More should be placed this season and the track raised where necessary. Shoulders should be filled out in many places. Ninety-five men take care of 118 miles of road. The highway signs should all be in good position and bright with paint. Cattle-passes that have not been in use for years should be closed or covered up. Shims should not be allowed in through the summer. A number of the new steel cattle slat guards were noted upon day of inspection. The practice of placing the guards other than at right angles to the track is not wise. The line and surface were found very fair, considering the lack of ballast. Square rail joints were noted to some extent. Spare rail at frequent intervals should be kept along the line in case of accident. At Freeville Junction a new station is to be erected and location bettered. This should not be delayed. This company has clear-ance marks upon all its lines at all switches. It is certainly an important item. Foot-guards should be placed at all points and angles liable to be dangerous. A careful watch should be kept for broken angle-bars, and they should be replaced by new ones immediately. Ditching was noted fair, though the road could be greatly bettered if more attention were paid to this very important item. There are too many openings in this 118 miles and something should be done to close a large number and shorten the spans. Much has already been accomplished in this direction. Many renewals of piles, caps, sills and stringers were found necessary. Chances should not be taken with timber partly decayed. There are a number of iron girders and bridges on good masonry. The wooden structures should receive closer attention. All of the old, small, loose and shaky stonework should be replaced with good, sound masonry laid in hydraulic cement.

Auburn to Ithaca.

This line is single track, and for the most part extends along Cayuga Lake. Many improvements are in contemplation, including seven fixed train-order signals, 21,663 cross ties, 7,765 switch ties, 2½ miles of woven-wire fence, 14 split switches, 11 automatic safety switchstands, 9 frogs, 6 cattle-guards, 145 bridge ties, 26 derailing switches, 15,504 feet (board measure) yellow pine for bridges, 16,026 feet (board measure) hemlock for crossings, and 15,000 feet (board measure) pine for stations. Clearance marks and crossing signs were noted good and well painted. Crossing plank was also found in good condition. Ballast material was noted in fair quantities and of good size. Many places were noted,

however, needing more ballasting. The line and surface of track were found very good considering the traffic. The curves, generally, were in fair condition. Some need closer attention. More attention should be paid to keeping the ditches cleaned. In some places this important matter was noted well attended to. The Cayuga Branch, four miles in length, from junction to Cayuga, remains about the same as when last inspected. Many trees were noted along the line which are liable to fall upon the track. They should be removed. The stub switches should be replaced with the safety pattern as soon as possible. Bolts at frogs and vicinity should always be well in; strict watch should be kept by the section foremen. All broken and cracked angle-bars should be replaced with new ones at once. Shims should not be allowed to remain during the summer. Ballast should be placed at all points where joints are extra low. The cross ties, generally, were in very strong life, close together, and of good section. Some ties much decayed were also noted, but the superintendent said these would be renewed during the month. This line is laid with 86-pound steel rail and is in serviceable form. More attention is necessary on the part of station agents in keeping windows and floors clean, and a general appearance of neatness about the buildings and grounds. The structures along this line, with few exceptions, were found in strong life of material. Four-inch bridge ties were noted in some instances. This should not be allowed. A derailed truck could not be upheld by so thin a floor. The truss structures were found in fair form. Some need paint. Electric-light poles were noted too close to the track for quite a distance. All old, shaky masonry should be replaced with good, sound material, and built iron or steel beams should be placed instead of wooden stringers where there are stone abutments.

Ithaca to Geneva.

This line is single track and 38 miles to the junction. It is laid with 80-pound steel rail 30 feet lengths and mitre joints. Trees overhang and stand too close to the track. Grass was not cut though it will be upon this line very soon. Fences were noted good, and excellent work has been done in keeping the property fenced in upon this line. Bolts were noted well in, also spikes. With few exceptions, the cross ties were found in strong life, close together, and good section. Ballast is needed upon this line. All of the small structures in the roadbed were overhauled last year and with few exceptions, upon day of inspection, they certainly appeared in good form. Some cattle slat guards were noted of good form. Attention should be paid to this item and all placed in firm position. Salt is being used in considerable quantities to

kill weeds and grass. All the wet cuts upon this and other lines should be drained by tile placed under the ground. If this is done the benefit to the roadbed will be considerable. Spare rails were noted up in good position and quite close together. Attention is called to the practice upon these lines of not spiking every tie on bridge floors more care should be given to joints in the matter of spiking. Clearance marks were noted up in all instances. Drinking water should be constantly on hand at every passenger station. More attention should be paid to the larger structures.

Middlesex Branch.

This line is single track, 29 miles long, and laid with 60-pound steel rail. The Lehigh Company began operating this branch December, 1895. There are 79 structures on this short line. They are all comparatively new and of the same design; many are three bays and well made. The stringers are 7 x 14 inches, and two and three under each rail, depending on span. A large number of these openings could and should be filled or considerably shortened. It is said this will be accomplished before the timber needs renewing. The switches are all split points and in sound position and well attended to. The highway grade crossing signs are up in good position and in good paint. In fact all of the items upon this line are virtually new. The original stringers in openings were of oak and the Lehigh Valley Company have strengthened many with yellow pine. There are 33 highway grade crossings, and two overhead highway bridges. Guard rail is being placed upon all openings over 14 feet span. This line should be ballasted without delay. Line and surface can not be bettered unless there is good material under ties and rails. From Stanly to Naples was opened in the fall of 1893, and from Stanly to Geneva in fall of 1894. The line is well fenced in and the property in good order. The passenger stations were noted in fairly good condition.

Van Etten Junction to Ithaca.

There are 30 openings over four foot spans in this 21 miles of road. Many of them should be closed up entirely or very much shortened. Several could be closed by placing cast-iron pipe. Some of the wooden stringers have been replaced with iron I beams since the last inspection. A very careful boring inspection should be made by the officials of the road upon all of the trestles, and wooden structures. Piles too much decayed should not be allowed. Caps and sills should be watched carefully. Trees were noted too close to track upon this line. Clearance marks were noted up in good condition. Foot guards should be placed upon all the lines at every point that is dangerous. Spare

rails were noted up. This line as a close rule is in fair condition in most of the important items. Shims should be taken out. Bridge seats need cleaning; this work should be done oftener. Shims under a frog is inexcusable. Bents should not be allowed in the alignment of water flow, particularly when the stream is at all dangerous; scouring takes place in times of freshets, and great damage is liable to be done; many failures can be traced back to this cause. The rail is wearing well and was noted in very good line and surface. Much of the masonry was noted very good, still work is needed upon it in the way of painting and general overhauling. Passenger stations were found very well attended to.

Rochester Junction to Hemlock Lake.

This line is single track, standard gauge, and laid with steel rail taken from other lines of the company. From Rochester Junction to Honeoye Falls was opened in 1892, and the balance of the distance in 1895. There are 14 highway grade crossings. There are a few temporary trestles, some quite long, that will be filled when the timber is in need of renewal. A steel viaduct is to replace the 600 foot trestle at Honeoye this year. All of the trestles are well made and in apparent good form. All of the bents are hemlock. Clearance marks were noted up and most of the important items have been placed. Foot guards were not noted. The fences were found well up. At the Hemlock Lake end a pavilion has been erected and pleasure seekers thus accommodated. The line and surface is given good attention and the road is in fair condition. Eighty-pound steel rail was noted from the Junction to Honeoye Falls. A spur was noted to Honeoye village. The through plate girder bridge over the New York Central and Hudson River Railroad branch was found ample in metal and in good condition. Much of the work of ditching and grading is yet to be done, but the officials say another year will see great improvement.

Rochester Junction to Rochester.

This line is 13 miles long, single track and laid with heavy steel rail. It has been ballasted since last inspection with Honeoye Falls gravel. Cross ties were found sound, close together, and of good section. Rail well spiked and bolted and the line and surface very good. The fences were noted up good and the right of way in good order. Some cinder ballast was also noted. Eighty-pound steel rail prevails with mitre joints. All of the openings are spanned with metal bridges. Spare rails were found up good. Some poor ties were noted, but not many. The work between the Genesee river and Erie canal feeder will be finished this year.

There are 10 highway grade crossings, one under highway crossing and two over head. The highway grade crossing signs were noted up, well painted and in conspicuous positions. The switches are all split points, and in good working order. Every switch on a main line should be kept locked when not in use. The alignment upon this piece of road and also from the junction to Hemlock Lake is very good, and the grades are not excessive.

Willard Branch.

This short line remains in about the same condition as previously reported.

LONG ISLAND RAILROAD.

(Inspected April 7, 8 and 9, 1896.)

The improvements upon this system since the last inspection have been many and the physical conditions have been greatly enhanced. Since April, 1894, the date of last inspection, modern brick passenger stations have been erected at East Hampton, Amagansett, Glen Cove, Farmingdale, Bridge street and Corona; also frame stations at Montauk, Bushwick avenue, Cowenhovens, Wading River, Rocky Point, Millers Place, Bushwick Junction and West Hempstead. Eighteen new signal towers have been erected, namely: At New York avenue, Hollis, Brushville, Queens, East Queens, Jamaica, Springfield Junction, Sheepshead Bay, Gravesend, Parkville, Fort Hamilton avenue, Parkville, Thirty-seventh street and Thirteenth avenue, Manhattan Beach, Church Lane, Manhattan Beach Junction, Lutheran cemetery and Cypress avenue. Nine hand car houses have been built. Brick freight houses have been erected at East Hampton and Amagansett, and frame freight houses at Sheepshead Bay, Bushwick Junction, Woodside, Winfield and Syosset. An iron express shed 110x460 feet has been erected at Long Island City, besides platforms and buildings at Central Slip, Lawrence, Brooklyn Stable, Flushing Stable, Far Rockaway and Nepeague Beach. Engine houses have been built at Wading River, two stalls; Amagansett, four stalls. In addition to the above, 12 miscellaneous buildings have been built since the last inspection. Twenty-three stations have been painted and 26 bridges. Since the spring of 1894, 125 miles of new fence (where no fence previously existed) have been built. All of the existing fences have been overhauled and made strong. Thirty-one curves have been staked for easement, and 26 of them already thrown to stakes, the remaining five will, the chief engineer assured your Inspector, be lined up within a few weeks. During the year 1895, 7,000 tons of new 80-pound steel rails were placed in renewals. This rail takes the

place of the light 56-pound steel as follows: In all curves between Hicksville and Port Jefferson, 1,700 tons; in all tangents between Fresh Pond Junction and Manhattan Beach, 2,200 tons. (The curves having been laid before the last inspection.) In all the curves and tangents between Manhattan Beach Junction and Bay Ridge, 1,000 tons. This completes the heavy rails for the whole of the Manhattan Beach division in use for passenger service; 700 tons in all curves and tangents between Far Rockaway and Valley Stream, also between College Point and Whitestone Landing, 450 tons, also one track from Corona to Whitestone Junction, 150 tons, also from Valley Stream to Lynbrook, 400 tons, also renewals of tangents on N. Y. & R. B. Ry., 400 tons, this completes heavy rail between Glendale Junction and Hammels. During the year 1896, 6,500 tons of 80-pound rail will be put in place of the light 56-pound rails on all tangents between Patchogue and Bridghampton (curves having been laid in 1894) also from Yaphank to Waverly, also from Brentwood to Edgewood and from Hicksville to one and one-half miles east of Farmingdale. Previous to the year 1894 the section foremen used their judgment in the renewals of cross ties with such oversight as the division supervisors were able to give. During the year 1894, orders were issued that no renewals should be made except those marked by the supervisors personally, this plan gave very good results but handicapped the supervisors in the discharge of their other duties. During the year 1895, a special Inspector was appointed for this duty. His work extends over the entire road inspecting each tie and marking with a brush and white paint such as require renewal. The economy and beneficial results of this system have been so apparent that there is no doubt it will be continued in the future. The system is a good one, and is commended to the attention of all the roads of the State. The renewal of cross ties for the years July 1, 1894, to April 1, 1895, has been: Long Island Railroad, 82,444, New York and Rockaway Beach Railway, 1,148, Prospect Park and Coney Island Railroad, 1,743, and from July 1, 1895, to April, 1896: Long Island Railroad, 71,986, New York and Rockaway Beach, 2,145, Prospect Park and Coney Island Railroad, 2,169. During the past two years some 43 miles of single track have been ballasted with cinders, including the double track between East New York and Manhattan Beach, double track between Westbury and Hicksville. A portion of the double track between Long Island Junction and Jamaica. Single track Babylon to Bayshore, and in the vicinity of Hicksville on the Port Jefferson Branch and main line eastward. Extra good results are noted where sections of the road subject to heaving by frost, have been ballasted with this material. The amount of shimmiing necessary has been reduced to a minimum. Very good

results are also noted where sandy portions of the road are cinder ballasted in the great reduction of dust during the summer season. During the past two years the Port Jefferson Branch has been extended 11.32 miles of single track to Wading River. The rails used for this extension were the best of the 56-pound rails taken from the other portions of the road in the renewal of rails above noted. The cross ties utilized on tangents were largely white cedar with tie plates for each tie. The Montauk division has also been extended from Bridgehampton, 21.2 miles to Fort Pond Bay or Montauk, as the terminal station is named. Eighty-pound rail was laid upon this extension the entire length. White cedar ties and tie plates were used on the tangents, and yellow pine on the curves. Beach gravel was used for ballast upon five miles of this extension. Great care was taken in the construction of this new line to avoid grade crossings, by carrying them over or under the railroad, five overhead and 11 under crossings were made. The necessary water and coal stations for the new extensions have been erected and instead of turntables at the terminals Y tracks have in all cases been constructed. At Montauk the Y is capable of turning an entire train. The work of renewing, repairing and replacing by iron pipe the old structures in the road-bed have been very extensive, as the following list will show:

Long Island City to Greenport.

Bridge No. 15, March, 1894.— Wooden stringer span of 5' 2" replaced by "I" beams of same length on east bound track. Both tracks now have "I" beam spans.

Bridge No. 25, June, 1894.— Wooden stringer 12' 4" clear span, replaced with plate girder of same length.

Bridge No. 30, September, 1894.— Framed trestle of 15' 9" clear span, replaced with "I" beam span of 14" clear span and new masonry abutments erected for same.

Bridge No. 31, September, 1894.— Wooden stringer span, 11', replaced by "I" beams and new masonry abutments.

Bridge No. 32, November, 1894.— Wooden stringer span of 4' 5", replaced by "I" beams of same span, and new masonry abutments built.

Bridge No. 35 (on Bethpage Branch), November, 1894.— Two "I" beams put in to strengthen span.

Sag Harbor to Jamaica.

Bridge No. 81, December, 1894.— Framed and pile trestle of 85 feet. Center span replaced by through plate girders of 40 feet 8 inches, center span and new masonry.

Bridge No. 67, July, 1894.— Pile trestle renewed throughout. Center span, 33 feet 10 inches.

Bridge No. 69, January, 1894.— Replaced by 48 feet of 36-inch pipe (iron). Old bridge had center span of 32 feet.

Bridge No. 71, January, 1894.— Pile trestle of 8 feet 6 inches. Span renewed.

Bridge No. 76, December, 1895.— Pile trestle of 19 feet 7 inches. Center span renewed.

Bridge No. 79, February, 1894.—Framed trestle of 11 feet 6 inches. Center span renewed.

Bridge No. 82, January, 1894, and December, 1895.— Strengthened by additional piles and stringers.

Bridge No. 83.— Strengthened by additional piles and also new stringers and floor, January, 1894, and December, 1895.

Bridge No. 84, January, 1894.— Framed trestle of 32 feet, Center span renewed with pile trestle of 16 feet 8 inches center span.

Bridge No. 85, January, 1894.— Replaced by 72 feet of 48-inch pipe.

Manhattan Beach Division, Bay Ridge Branch.

Bridge No. 533.— Single track arch tunnel replaced by "I" beams of sufficient length to allow two tracks between abutments. Span, 31 feet and 7 inches.

Port Jefferson Branch.

Bridge No. 120, May, 1895.— "I" beams of 24 feet replaced by plate girder deck span of 35 feet 6 inches. Center span and new masonry abutments built.

Bridge No. 539.—Renewed throughout, using old latticed girders for main spans in December, 1895.

Bridge No. 540, March, 1894.— Renewed throughout, using old plate girders for main span.

Far Rockaway Branch.

Bridge No. 97, January, 1896.— Strengthened by driving a number of new piles.

New York and Rockaway Railway.

A new stringer has been replaced under each rail for almost the entire length of the Jamaica Bay trestle, and this structure also has a new guard log from end to end on both sides. A large number of piles and all decayed caps have been replaced. Extensive renewal of decayed timbers of trestle bents at Woodhaven is now in progress. This trestle is to be placed in strong condition.

Long Island City to Great Neck—North Shore Division.

Bridge No. 39, May, 1874.—Pile trestle of 13 feet. Center span renewed throughout.

Bridge No. 42, March, 1896.—Angle of center pier charged, and girders lengthened 3 feet. ●

Bridge No. 45, Wooden stringer of 14 feet. Center span replaced by 36 feet of 16-inch iron pipe in July, 1894.

Bridge No. 45½.—Wooden stringer of 6 feet. Center span replaced by 12 feet of 36-inch iron pipe, December, 1894.

Bridge No. 47, May, 1875.—New deck plate girder swing draw-bridge, replacing old combination truss. Length of new girders, 82 feet.

Prospect Park and Coney Island Railroad.

Bridge No. 161.—Long trestle at Gravesend, 2,023 feet in length. All but 323 feet filled in, and the portion which will remain open has been strengthened with extra piles and stringers.

On the Wading River extension five new structures appear, three of which are stone arches, one overhead wooden bridge and one plate girder. On the Montauk extension are eight deck plate girder bridges, three through plate girders and two overhead wooden bridges. All of the open structures have excellent masonry abutments.

Block and Interlocking Signal Apparatus—Installed during 1894 and 1895.

“Controlled Manuel” block signal system installed between Long Island and Floral Park, and the Montauk and Main Line Divisions, 15.3 miles. The section on the Montauk Division, between Long Island City and Jamaica, replacing the telegraph block in use before. The block instruments are of the most improved design, and all starting signals are equipped with automatic electric slots. The system comprises 19 block stations, containing 144 interlocked levers. January 1, 1896, the total number of block and interlocking towers was 64, containing 815 working levers, operating 592 signals and 311 switches. The total number of signals of all kinds, 814.

New Side Track Laid.

Long Island Railroad, 4.47 miles, New York and Rockaway Beach Railway .20 miles, Prospect Park and Coney Island Railway, June 30, 1895, to March 1, 1896, .5 miles. Two years ago a system for awarding monthly prizes to the more deserving section foreman was instituted, as noted in your Inspector's last report. The system has proved a success, and although it is not claimed to be perfect in every detail, it has engendered a spirit of emulation in the men.

The clause in the rules relative to the awarding of these prizes debarring a foreman from participating in the awards for three months after a derailment on his section, the cause of which was defect in the track or section work, has resulted in a noticeable reduction of such derailments. On April 1, 1895, a new division of the sections of track foremen took effect. The readjustment was carefully made, so the chief engineer says, with the object in mind of insuring uniform work on each section.

The entire property, upon the days of inspection, was found in strong life of maintenance, and all the details, including ballast, cross ties, rail, spiking, bolting, switches, tie plates, braces and the like were in extra condition. Tie plates are being used extensively, and the officials express great satisfaction with them. The suggestions offered in the last report have been adopted largely and your Inspector noticed a sincere desire upon the part of all the officials to make this road positively safe. The track force is watchful and intelligent and faithfulness is noted upon each of the lines. Each of the various lines receive constant attention in the more important items of track work, as well as passenger stations and the like. The chief engineer informed your Inspector that all of the decayed ties (and these were comparatively few) would be removed this spring. Your Inspector was pleased to note the permanent character of all new work and materials. The bridges are well cared for, minor openings being closed up entirely by inserting cast-iron pipe.

MANHATTAN ELEVATED RAILROAD.

(Inspected March 18, 19 and 20, 1896.)

In 1867, the New York Elevated Railroad Company began an experimental section in Greenwich street from Battery place to Cortlandt street. This line was finished and accepted by the Commissioners on July 1, 1868, with the station at Cortlandt street. The above section was about half a mile long. A single track line was next completed from Cortlandt street and Greenwich (on easterly side of said street), to Ninth avenue and Thirtieth street (on the westerly side of the avenue), in the latter part of 1869 or the early part of 1870. The line thus completed was operated by means of an endless chain driven by stationary engines, located beneath the surface of the ground, as follows: Cortlandt and Greenwich streets, Franklin and Greenwich streets, Bank and Greenwich streets, Twenty-second street and Ninth avenue. During 1870, this method of operating the road proved a failure, and the road remained idle until the spring of 1871. The stations used in operating the road by the endless chain were located at Dey and Twenty-ninth streets. On April 20, 1871, the company commenced

running to Twenty-ninth street and Ninth avenue with one dummy and three passenger cars, using Dey and Twenty-ninth street stations only. Watts street station was opened May 6, 1872. At Twelfth street and Ninth avenue a station was opened August 24, 1872; also put in a small switch at same place, long enough to hold a train consisting of three cars and an engine. The Twenty-first street station was next opened October 21, 1873. January 4, 1873, 988 feet of track were built or laid on lots 5 and 7 Broadway, and 5 and 7 Greenwich street, and station opened at 7 Broadway, utilizing the building as a station; Morris street station was abandoned at about this time. Franklin street station was opened January 21, 1873. The switch at Little Twelfth street was extended northerly, about 433 feet, June 17, 1873. The main line (single track) was next extended about one-quarter of a mile to Thirty-fourth street, and station opened July 30, 1873. Between November 3 and December 10, 1873, stations were opened at Houston and Thirtieth streets, and the Twenty-ninth street station was abandoned. About May 25, 1874, the Liberty street station was opened and the Dey street station was abandoned. About 560 feet of turnout was built and opened at Franklin street and Greenwich at this time. The line was continued in construction in the above manner, from time to time, until, in the latter part of 1877, there was commenced a second track on the westerly side of Greenwich street between turnouts then existing on that side; also a second track on the easterly side of the horse car tracks on Ninth avenue between the turnouts, so that there was a second track or a continuous double-track road from South Ferry or Battery to Fifty-ninth street, which was completed and opened for business June 2, 1878. Extension was next made in the main line from Fifty-ninth street to Eighty-third street, with stations at Seventy-second and Eighty-first streets, June 9, 1879. The old track on the easterly side of Greenwich street and on the westerly side of Ninth avenue, as originally erected, together with such portions of structure built in 1874, 1875 and 1876, as were considered by the engineers to be insufficient, were torn down section by section (the company using temporary turnouts to operate the road) and replaced by new or present structure, which was completed entire and opened for business, May 2, 1880. Joint structure, Metropolitan and New York companies, on Ninth avenue from column 634 at Fifty-third street, to column 811, center of Eighty-third street.

The Second Avenue line commenced foundation work at Division and Allen streets, February 24, 1879, and August 16, 1880, trains were running to One Hundred and Twenty-seventh street. Foundation work on the Third Avenue line was begun between Whitehall street and Hanover square, November 1, 1877, and the

road was opened to One Hundred and Twenty-ninth street, December 30, 1878.

The Thirty-fourth Street branch was begun in February, 1879. The iron work was completed in October, 1879, and the track completed in February, 1880, and the branch opened to the public, July 1, 1880.

The City Hall branch was begun June, 1878. Foundations and iron work was commenced October, 1878. It was opened for travel, March 17, 1879. Then closed by order of the Railroad Commissioners, March 27, 1879, and reopened March 1, 1880.

Foundations for the Forty-second Street branch were commenced December, 1877; opened August 12, 1878. The Grand Central station was at this time the northerly terminal of the main line on Third avenue and southerly terminal at the South ferry.

The One Hundred and Twenty-ninth Street section was begun June 11, 1888, and completed May 30, 1889.

The foundations for the Suburban branch were begun in December, 1885. This line was erected in sections, and the whole line was finally opened to One Hundred and Seventy-seventh street July 20, 1891. The Manhattan Company took possession June 4, 1891.

April 19, 1876, the foundation work was begun at Forty-second street and Sixth avenue, on the Sixth Avenue line, and was the Metropolitan Elevated Road. This work was destroyed by injunctions to a considerable extent, but was finally completed from Morris street to Fifty-eighth street, June 5, 1878.

The Fifty-third Street section was begun July 8, 1878, and opened to the public February 25, 1879, connecting the Sixth and Ninth Avenue lines.

The Eighth Avenue extension to One Hundred and Fifty-fifth street was opened December 1, 1879. The total Metropolitan, New York and Suburban lines have 36.19 miles of main or double track, 14.09 miles third track, 13.98 miles of sidings, 6.19 miles of turnouts and crossovers, an aggregate of 106.64 miles of single track, all operated by the Manhattan Elevated Company. The inspection of this system was made in company with the chief engineer and the general roadmaster; your Inspector examined, as closely as possible the entire structure, by means of the regular trains and walking along between stations. The standards used by this company in metal structural work, track systems, interlocking and signals, were explained by the officials and copies of sections, plans, details, strain sheets, etc., were handed your Inspector. The sleepers or cross-ties were found in very good condition upon the whole system, with few exceptions. This company evidently renews the wood-work before decay sets in.

This is also true of the guard-timbers. Your Inspector was pleased to note the extra care taken in keeping the timber and fastenings within the safe limit. Yellow pine is used on the entire structure and vulcanized by a secret process. The wood thus prepared gave satisfactory results. Timber was shown in use 10 years and more, with sound heart. The timber to be vulcanized is placed in huge cylinders and steam forced through the pores; then hot air, under high pressure, is forced through the pores and some secret substance, tending to preserve the timber, during the hot air process, is forced into the wood. The company obtains the best possible timber. The ties are large, 6x8, and spaced 18 inches, center to center. As fast as the timber shows any degree of decay or wear it is removed. The alignment of tracks was noted very good, and great care is evidently taken to keep the rails true and free from kinks, either vertical or horizontal. Every tie is spiked and great care taken to renew broken spikes. The adjustment of rails was noted extra, particularly upon curves, where were noted guard-rails held firmly to the gauge-rails by bolts and heavy, cast-iron packing blocks. The rail-joint fastenings were found well cared for and, in the open, your Inspector did not note any bolts missing or plates cracked or broken. The rail upon main lines is largely 90 pounds per lineal yard, though some 70-pound steel was noted; this light steel will, however, in the near future, be renewed with the 90-pound. The rail weights have gradually increased from 35 pounds, when the original road was built, to the present heavy section. Some of the 70-pound steel was noted somewhat the worse for wear, though generally speaking it is all in fair condition. The rail upon curves has to be renewed quite frequently; every 19 months, on the average. Some square joints were noted, though staggered construction prevails. The rail is well spaced and upheld on curves as well as tangents. Counter-sunk cast washers were noted in extra condition where guard timbers are bolted. All of the later work is of this nature. Some of the old cement filled bolt construction was noted, but this expensive and insecure class of work is fast giving way to the economical method of counter-sinking. The switches were all noted in very good form and condition, and extra care is evidently taken to keep them in positive working order. They are all of split point pattern and accurately adjusted. The passenger stations were found in good repair and neatly kept. Repairs are constantly going on where needed. Platforms have been extended and constant improvements are made. Your Inspector was pleased to note freedom from all signs of makeshift construction, such as shims and the like. Every item along the various lines showed intelligent maintenance. Spare rails were noted frequently along each of the lines in case of breakage or

accident. The property, as a whole, was noted very free from inflammable matter. The yards and platforms were clean and neat. Facing switches were noted to some extent, though tailing switches abound in nearly every instance possible. An effort should be made to lessen the number of facing switches where possible. This, your Inspector was informed, would be looked after in the near future. The grades, as a rule, were not excessive. Some betterments could be made in places where breaks in grade have been made to place stations on a level. Two per cent. grades are about the maximum. The systems of interlocking upon this road are very good, and great care is taken at all points. Simplicity of mechanism has been striven for with great success. This is also true of the fog signals and block system of signals. The operation of this road is greatly hampered by the frequent fogs, and great care is taken to keep everything at such times well in hand. The roadmaster, during fogs, is constantly posted by reports sent him from every station as to the varying conditions. In examining the book of rules of this company your Inspector was impressed with the extra care taken to prevent accident. The frequency of trains during the busy periods of the day certainly necessitate extra care and constant attention upon the part of all employed. The metal part of the entire structure is cared for rigidly and daily inspection is constantly going on. The longitudinal girders and trusses, as well as the transverse, are overhauled and inspected by skilled metal workers, and frequent reports made. Besides the inspectors, are employed those who watch the inspectors to insure faithfulness of action. The track force was noted ample, and each branch of the maintenance of way department manifest a desire to keep everything as near the perfect line as possible. The systematic action of all employes speaks well for the discipline enforced. The station agents are all males, and no promotions are made except from the ranks, where merit prevails. Tests are frequently made at centers of trusses and girders by means of a movable or sliding rod, held upon the bottom chords, and read by the employe from below at passage of trains to ascertain depressions under moving loads; when this depression becomes excessive or approaches it, reinforcement of metal takes place. Your Inspector was shown the work of reinforcement in progress in a number of places, and men, material and tools were noted ample. The evident policy of this company throughout is to keep its structure in all the details amply safe and abreast of the times. Great care is taken in keeping the metal protected from the elements. The company uses a preparation of its own for painting the metal parts. Your Inspector scraped in a number of places to see what rust had formed, particularly where outward appearances indicated lack of paint,

and in each instance found fully one-sixteenth of an inch of paint material covering the metal. Flying dust from the street below, ashes, cinders, grit and the like, in many places, have made the outer surface of the metal seem in need of paint, but closer inspection shows the metal well coated. An experiment upon switch targets and the like is being made with enamel paint. The alignment and adjustment of the structure, taken as a whole, was noted in extra form. The wooden bumpers at dead ends are of ample dimensions and in good state of preservation, amply bolted, and of good design. The tie renewals last year were 26,000 and the same will be placed this year. Ninety feet radius is the sharpest curve on this system. The passenger stations are being repainted now. Ninety-pound steel rail will be laid upon the Third avenue line this spring. The yards were inspected and everything found in good working order and all safety appliances in good condition. Your Inspector was much pleased with the road as a whole and the intelligent manner in which public safety is subserved in the maintenance of way department.

The following is a statement of work in contemplation for 1896, as reported by Mr. Waterhouse, the chief engineer:

NEW YORK, *March 30, 1896.*

F. K. BAXTER, ESQ., *Inspector State Board of Railroad Commissioners, Utica, N. Y.:*

DEAR SIR.—I give you the following statement of work we propose to do this year in the way of maintaining and strengthening our structures and tracks, in addition to the usual amount of small repairs:

Iron work.—Ninth Avenue line, south-bound track, place 24" plate girders longitudinally under present 24" plate girders, from Thames to Cortlandt streets, Houston to Clarkson and Bethune to Gansevoort, a total distance of about 5,200 feet.

On north-bound track from Forty-first to Fifty-first street, substitute 32" plate longitudinal girders for present 24" girders.

Sixth Avenue line. For 10 spans in Fifty-third street near Broadway, the ties rest on longitudinal wooden stringers placed on the longitudinal girders. We shall remove the wooden stringers and raise the girders 6" to conform to our standard system, by means of cast-iron blocks secured to the pockets of the transverse girders.

Track.—Second Avenue line. Renew 6" by 8" yellow pine guard-rail at various points between Grand and One Hundred and Twenty-fifth streets, equivalent to about 10,000 feet of single track.

Third Avenue line. Renew ties and guard-rail at various points from South ferry to One Hundred and Twenty-ninth street, equal to feet of single track: Ties, 10,500 feet; guard-rail, 8,000 feet.

Renew steel rails (substitute 90-pound for 70-pound) up and down tracks, Fourteenth to Thirty-fifth streets, and One Hundred and Seventeenth to One Hundred and Twenty-fourth streets, a total of about 15,000 feet of single track.

Sixth Avenue line. Renew guard-rail and ties, various points, Murray street to Fiftieth street, equal to feet of single track: Guard-rail, 1,800 feet; ties, 750 feet. Renew steel rail (substitute 90-pound for 70-pound) at One Hundred and Fifty-ninth street and Eighth avenue, equal to 2,250 feet single track.

Ninth Avenue line. Renew guard-rail between Forty-third and Forty-ninth street, north track, equal to 1,000 feet single track.

All lines will use about 500,000 feet 2x6 yellow pine slatting for renewing track walks.

Painting.— Sixth Avenue line, on Eighth avenue from One Hundred and Thirty-first street to One Hundred and Forty-ninth street, equals 4,756 feet of three-track structure.

Third Avenue line. From Fifty-seventh to One Hundredth streets, except one block north and south from stations, which was painted last year, equals 8,458 feet, nearly all three-track structure.

Suburban branch. From One Hundred and Forty-fifth street to One Hundred and Sixty-third street, equals 5,128 feet of two-track structure.

All lines.— The painting of stations, buildings, signals, etc., is in addition to the foregoing; this latter work being continuous throughout the year.

J. WATERHOUSE,
Chief Engineer.

MIDDLEBURGH AND SCHOHARIE RAILROAD.

(Inspected July 29, 1895.)

This road is six miles long and, with a few exceptions, remains in the same condition as previously reported. Water should be kept in the passenger coaches for drinking purposes, also in the stations. Grass and weeds were noted upon the track, though some attempt had been made to remove them. The sleepers are in fair condition, though many were found too ripe. Oak in the clay roadbed does not last long. There is no ballast and the condition of the track is consequently very poor, owing to varying widths of the rail between the base and head the joint fastenings can not be held tight, and the bolts shake loose; and not over 300 joints, properly fastened, were noted. This road should be ballasted. It is said by the manager, a stone crusher will probably be located next the track and stone broken for ballast. This work should not be delayed. During freshet seasons and heavy rains the ties are, in many places, forced deep in the clay mud. This road is not expected to be maintained

like a trunk line, but it should be at least kept in an average condition. Two small hills occur that could with small expense be reduced and the grades greatly bettered. This work is expected to be accomplished in the near future. The stub switches in the Middleburgh yard should be removed and "points" substituted. Old ties and track debris should be removed from the right of way. The warning signs at highway crossings should be painted and repaired. The open pit cattle guards should be filled and slats placed. Attention should be paid to placing cast-iron pipe where possible and filling small openings. The Fair street station spoken of in Schoharie Valley road report should have platform lowered to avoid danger; also the station platform at Schoharie should be removed and lowered. No attention of moment has been paid to the suggestions in last report about the lack of guard timbers and proper spacing of floor ties at small openings. The stone walls that have bulged, should be relaid with heavier stone and thickness of walls increased. The ditches have received some attention, though not enough.

NEWBURGH, DUTCHESS AND CONNECTICUT RAILROAD.

(Inspected May 21, 1896.)

This property has been considerably improved since the last inspection. The station at Millerton is new, the old one having burned in 1894. Four miles of 60-pound steel rail has been laid on the mountain grades; 30 tons of 60-pound steel rail is being laid. All of the iron rail has been removed since the last inspection. Fourteen thousand yellow pine ties 6 x 8 x 8, and 2,000 7 x 9 x 8.6 yellow pine will be placed this year. The company also ordered 1,000 white oak for curves; 26,000 ties were placed last year. All signs, targets and the like are being painted. Split point switches were noted in strong condition upon the whole road. A number of high platforms are to be removed. The Tioranda iron viaduct was in course of erection upon day of inspection, replacing an old trestle much decayed and dangerous. The new structure is of good design, though appearing scanty in metal. The stone piers were noted well laid and of good sound material. All the minor structures were found sound in timber, both floors and stringers, and resting upon sound masonry, with few exceptions. Considerable care has been given to make each safe. Shims were noted in yet to a considerable extent; there is no excuse for keeping them in after the frost is well out. The superintendent said attention would be given to removing them at once. Fifty-two men care for the track upon 58 miles of main line. Expect to ballast six miles of road this year. Spare rails were noted up at close intervals. The cross ties were found as a close rule very

strong and in good life; some exceptions were noted, though not many. Rail joint bolts were noted in very well, but few noted missing. Every hole should be filled with a bolt. Spiking was noted very good and full in ballast, but upon the floors more should be used; every tie should be spiked, and more attention given to spiking at joints. Considerable ditching has been done and much more is needed. The wet cuts should be drained with tile pipe. Tile pipe is used upon this road, and your Inspector was much surprised to find some under the roadbed. Tile can be used where it is free from the action of the frost, but it will be found very expensive to maintain where ice and frost can reach and crack it. The fences were found in strong condition and well cared for. The highway signs were found well painted, and, as a rule, in plain sight either way. The stone culverts under the embankments will be overhauled this season. All trees should be removed that stand near the track and are liable to fall by lightning or high winds. Your Inspector was surprised to find so few derailing switches upon sidings. Some were noted, but every siding leading down to the main, and upon which cars are allowed to stand, should have this device. Foot guards should be placed at all points and angles in the track. Guard rails are in use upon structures to some extent; every floor over 12 feet should be protected in this manner. Iron slat cattle guards are in use; many more are to be placed this season. Ballast material was noted handy at a number of points along this road, and with a small outlay, the whole line could be well ballasted. The Millbrook trestle is not a curve. This structure is not well made; the stringers are not continuous, and the bents stand in dangerous location when the condition of the stream in flood time is considered. This trestle should be filled from the ends toward the creek, where one span of steel upon stone work would answer. This work should be accomplished without delay. The passenger stations were found neat and clean and attention paid to conveniences. Many of the minor openings could and should be closed by placing iron pipe or covering with rail. Quite a few of the small openings have been covered with rail since the last inspection. The Sprout creek trestle is supported upon piles and should be overhauled at once; chances should not be taken. The rail wears well and appeared upon day of inspection well lined and adjusted.

Clove Branch.

This branch is not in safe condition and does not pay expenses. It should be closed up at once or placed positively safe, both as regards track and structures. The inspection showed the ties to be in many instances, decayed beyond the power of holding spike

in place. The rail is old iron and in bad condition. The structures were found anything but positively safe, with few exceptions. This branch has been badly neglected, and while the train crawls along over it from six to eight miles per hour, danger is imminent. It is suggested that the branch be closed.

In connection with the above report relative to the condition of the Clove Branch, the Board recommended the immediate suspension of operation until the necessary repairs could be made. This recommendation was subsequently modified, on the application of the company, to the extent of permitting freight to be hauled over the line by a light engine, with a limited number of cars and at low rate of speed. This road was constructed to reach iron mines and owing to suspension of operations at the mines the amount of traffic had been very small for some time with practically no passenger service. The company assured the Board that as soon as business revived sufficiently to reopen the mines the road would be placed in safe condition.

NEW JERSEY AND NEW YORK RAILROAD.

(Inspected April 10, 1896.)

This property, in the State, has undergone considerable improvement since the last inspection, and it is now in the hands of the Erie Railroad. A new freight-house and passenger station at Mount Joy has been erected since 1894, taking the place of the one destroyed by fire. There are no wooden stringer openings upon this road in the State of New York. The road was found very well maintained as a rule. Considerable new 60-pound steel rail has been placed. There are still three stub switches. These should be replaced with the safety pattern this season. Derailing switches were noted. Nine thousand cross ties will be placed this year. The tie spacing averages 16 per rail length. About 9,000 cubic yards of gravel and cinders have been utilized for ballast since 1894. There has been no extensions of sidings on main line since the last inspection. One and a half miles of fence have been erected lately. Pearl River station should receive attention. The windows and floors should be kept clean and repairs made. The highway warning signs should have nine inch letters. Spare rail is kept along the track frequently, and the right of way was found generally clean. Some of the minor openings have been closed and cast iron pipe placed. This company has no electric highway bells in the State. A trestle 80 feet long near Pomona has been filled, and two 30-inch pipes inserted. This improvement is noteworthy. The bolts and spike along rails were

found generally very well attended to. The old water tank at Thiells should be removed. All of the trees that overhang the track or are too close to the right of way line should be removed. This is an important item, and should not be neglected. Guard rails on bridge floors should not be overlooked. Foot guards should be placed at all points. The New City branch remains about the same as when last inspected. Shoulders should be kept well filled out. The alignment and adjustment of track was noted very good for the time of year.

NEW YORK CENTRAL AND HUDSON RIVER RAILROAD.

Main Line—Hudson River Division.

(Inspected November, 1896.)

This division remains in the same excellent condition as in 1894. The improvements in many items have been great, including 100-pound steel rail, which is now laid to Peekskill. The Scarborough station has been remodeled and greatly bettered. It is said about 50 miles of 100-pound steel will be laid next year. The station at Hamburgh is new and has now modern conveniences. It is of good design and well constructed. A number of new bridges (steel) have been erected; large quantities of ballast have been placed; considerable new side track has been laid. The cross ties were found in excellent condition, very large in section, closely spaced and giving ample bearing for the rails; yellow pine is chiefly used and thought well of. The tie-plates assist greatly in the use and life of the ties. The item of ballast is well cared for, and the tracks are being raised in many places. Grading has received attention all along the line. Shoulders were noted full and well formed. The alignment is as perfect as possible to make it. The adjustment was noted extra. Great attention is paid to spiking, and very little upon day of inspection was found to criticise in this item. The joint bolts were found well in, and constant attention is paid this very important item. The angle-bars used at rail joints are of good section, heavy and of excellent steel; very few are reported broken per year per mile, and new ones are immediately placed when even cracks develop. The rail wears well, and as a close rule, it is in good condition. Burnt, cracked and broken rails are immediately replaced with new full lengths. The fences are carefully kept up and very little was noted in need of urgent attention. Page woven wire is largely in use. The grass and weeds were noted well cleared away and the right of way clean. The switches were found in excellent condition. Points in a few instances were noted needing renewals. Great care is given this very important item, and daily inspection

is made of the parts of every switch. The ditches along this division have been cleaned out and nicely graded. It was a pleasure upon day of inspection to note the attention given this item. The warning signs at highway grade crossings, while not legal in form (see article 2, section 33, Railroad Laws), are in good condition, as previously reported. Crossing plank are given constant attention, and very few were found needing renewal. The arch and stone box culverts receive great attention, and masonry is pointed up and stones reset wherever needed. The cattle-guards are in excellent condition and cross fences and wings nicely painted. The passenger stations remain in the same condition as when last inspected — clean, neat, and well painted. Shims are removed when the frost leaves the ground, and are not, as upon some roads, allowed to remain in all through the summer. Bracing is largely used upon curves, and they were noted close together and of very good form; steel, and not wood, is used. The main criticism in speaking of the right of way is the number of trees standing too close to the track. Every one should be removed. The telegraph poles standing close enough to fall upon the track or tracks should also be removed. In close quarters, to wit, rock cuts, and where the right of way is narrow, some scheme should be adopted to eliminate this element of danger. Spare rails should always be kept at or near mile posts. Clearance marks should be placed at every needed point, and kept in strong life. Drinking water should be kept constantly on hand at every station. All of the openings in the roadbed should have guard-rails well spiked and bolted. The posts, boards, targets and signs were found in bright color and very well maintained. The curves should have "transition easement." There are very few small openings left in the roadbed. The practice of piping and covering with solid rail floors, and then filling with ballast, has greatly reduced these troublesome spans. The steel bridges were noted in the same excellent condition as in 1894. Great care is taken to keep them in good repair. They are protected from the weather with ample paint, and the submasonry work is in each instance massive and well cared for. The Park avenue improvement is delayed by an injunction at one point. It is to be hoped this important work will be soon finished. Just south of Cruger's Station the short tunnel should be made an open cut. The tell-tales should be given more attention. Foot-guards should be kept in constant repair. They are supposed to be in at all points, but are somewhat neglected. Derailing switches are in at all points and kept in excellent condition. Constant attention is given to keeping switches locked when not in use. Elevation blocks on bridge floors should not be allowed.

Mohawk Division—Main Line.

This division was also found in excellent condition. A number of important betterments have been made since last inspection, including the change in alignment west of Albany. This modification reduces the curvature from four and one-half degrees to one and one-half degrees, and shortens the line considerably. A number of new bridges were noted, all ample in metal, of excellent design, and upheld by first-class masonry. From Albany to Schenectady ballast has been placed, averaging half a car in a place. This whole division has received large quantities of Yost gravel ballast. A large number of openings have been covered with rail. Spare rails upon racks were noted every mile along the line. Quite a mileage of Page woven wire has been erected recently. The "National" cattle-guards are being used largely. A number of distance semaphores have been added. The new overhead bridge at Amsterdam is certainly a great improvement. New rail has been laid upon tracks 3 and 4 to a considerable extent since 1894. The station at Herkimer has been greatly improved, and the alignment much bettered. At Utica, great improvements are in progress; rearrangement of tracks in the yard east of the station are being made, and electric lights are to be placed in and around the station. The renewals in the item of cross ties or sleepers has been very good upon this division, and their life upon day of inspection was noted perfect in a general sense. The ballast was found well in, and with very few exceptions all of the tracks show the good effect. Grading has been accomplished largely along this division and the shoulders look trim and regular. The alignment was noted almost perfect, as was the adjustment. The item of spiking is very well cared for, and the bolting at joints extra. The rail remains as previously reported. The fences were noted in extra state of maintenance and the right of way clean and free from debris. The tracks are kept free from the evil effects of grass and weeds. The switches, guard-rails and appurtenances were found in extra condition. A few locks were noted unfastened; great care should be given this very important item. The ditches were found well opened and nicely graded. The warning signs at highways were noted in bright colors and conspicuous in position, though not legal in form (see Railroad Laws). Very few crossing plank were noted as needing renewal; this item is well cared for. The item of stock-guards is well attended to, and the cross fences and wings whitewashed and strong in life. The passenger stations, with few exceptions, are well maintained, neat and orderly, both inside and out. The absence of shims was noted. The curves are braced in extra condition. Clearance marks should be maintained; also foot-guards. Derailing

switches were noted at places having downward grades to the main track. Trees and telegraph poles should not be allowed to remain close enough to the tracks to be affected by lightning or high winds. Guard-rail should be placed and maintained upon all bridge floors. The targets, posts, signs and boards were noted painted and firm in position. The work of pointing, relaying and building new masonry, renewing floor systems, covering with solid rail floors, renewing blocking, repairs and new coping, placing cast-iron pipe line and filling, painting and the like, has received a great deal of attention. Girders doubled up in not a few instances were noted. In fact, this division has received ample attention in the matter of repairs to minor openings. The large steel bridges have also been given constant attention, and care and attention given the structures; and, in fact, all the various items are deserving of commendation.

Western Division—Main Line.

This division has also been greatly improved since 1894. Subdivision 9 is 46 miles long and has 19 sections. Ordinary repairs have been kept up, and the various items were found in excellent condition. Foot guards were noted not well kept up on this subdivision. No. 2 track on section 9 should receive attention, in ties and ballast. Section 10 was noted much better, but not as good as track No. 1. Jordan station is soon to be rebuilt. On subdivision 10, 43 miles long, and having 17 sections, has received 1,500 carloads of ballast. Four openings have been covered this year. Eight set of cattle guards have been placed. Clearance marks were noted also. About five miles of Page woven wire fence has been erected this year. Spare rail upon racks of neat design were noted at frequent intervals. Subdivision No. 11, 32.6 miles long, and having 11 sections, was noted with only ordinary repairs on tracks. About 10 miles of new fence has been erected since the last inspection. The whole of No. 3 track was laid new, with second rail, from tunnel New York city, since 1894. A large number of stock guards (iron) have been placed upon this subdivision. The stations are to be painted this fall. One of the abutments of the Erie Railroad (Attica Branch) overhead bridge, a short distance east of Batavia station is opened badly, should be attended to at once. Subdivision No. 12, 33 miles long, was noted in good general condition. Next spring large ballast renewals will be made. The retaining wall and piers near the Rochester station, referred to in last report, should certainly be attended to. *This work should not be delayed.* The work of depressing tracks in Buffalo has been completed largely through the train shed and toward the Terrace. The cross ties upon this division, while in

strong life as a close rule, should, to be up to the Mohawk and Hudson river divisions, be given more attention. The trees upon the right of way on this division are not many, but should be cut and removed wherever close to the tracks. A number of passenger stations have been painted and remodeled. Platforms have also been repaired. Upon the subdivision between State street, Rochester and Batavia, some 10 miles of fencing has been built and 1,300 carloads of ballast placed. This division has received ordinary repairs since the last inspection upon one and two tracks. Structural floors have been renewed. No. 3 track has received new and heavier rail. Fifty-two sets of cattle guards (National) have been placed since 1894. Near Depew station all the tracks have been elevated to allow the Lehigh Valley Railroad to pass under. Your Inspector was pleased to note upon the western end of the main line a disposition to attend carefully to the minor items. Your Inspector would urgently suggest that the curves of the main line, on tracks one and two be spiraled, as upon the other principal roads of the State.

At Syracuse a large train shed and passenger station have been erected since the last inspection (fully described in the last annual report). This city is now provided with the very best of accommodations. The waiting rooms are spacious, and the sub-ways to and from the trains are easy and perfectly safe. The general arrangements are good, and the company is to be commended for its evident desire to serve its patrons. The restaurant, though somewhat out of the way, is the best upon this company's lines, if not in the State.

DeWitt to Geddes.

On this line not a few improvements have been made, and the present year finds the property bettered in many items. There is no speed of moment maintained upon the line, and the heavy traffic (freight) necessitates constant attention to line and surface. The cross-ties are kept in strong life, and the spikes and bolts well in. The structures are maintained in good condition. The rail was found in very fair condition. Considerable improvement is expected upon this line another year.

Buffalo Belt Line.

Considerable improvement has been made upon this line since the last inspection. Some ballast has been placed, and the cross-ties have received attention. The minor details of track have been given constant attention, and bolts, spikes, braces, angle bars, switches, targets, stands and the like were found in very good state of maintenance.

Buffalo to Lewiston, via Suspension Bridge and North Tonawanda.

Many improvements were noted upon this line since the last inspection. The depressed trackwork from the main line train shed around to the terrace has been virtually completed, and the work is of the best. The retaining walls are massive and well laid, and all shows permanency. The progress of this work has been rapid considering the obstacles encountered. Considerable ballast has been given this line. The cross-ties were found strong in life, large in section and closely spaced. Clearance marks were noted in many places, well cared for. This item should be given attention on all the lines. Trees were noted too close for safety and should be removed. Some foot guards were noted, but not enough attention is paid this important item. Next year will see heavier rail laid upon this line. The most important things needed are ballast and heavy rail. The gauntlet over bridge has been removed. Derail switches are connected with switches on main line. This feature is very commendable. North Tonawanda yard has been greatly improved, stubs have been removed, yard cleaned up and nicely graded. Your Inspector was informed that all the cedar ties have been removed. A new overhead bridge was noted, well made and amply strong on the Buffalo and Niagara Falls trolley line. All of the items were noted well in hand, spike bolts, posts, boards, signs, spare rail, cattle guards and the like, were found in good condition. Guard rail should be placed upon bridges. Telegraph poles were noted too close to the tracks for positive safety. The Gill Creek Bridge, No. 24, is being made new, it is a through plate girder structure. Bridge No. 28, over the Hydraulic canal, is new since the last inspection. The tracks from Niagara Falls to Suspension Bridge have been raised 12 to 18 inches, and many of the items greatly bettered. Much improvement was noted around the Suspension Bridge yard. Between Suspension Bridge and Lewiston some 1,500 ties have been placed this year. The open pit cattle guards are to be closed up next season. New and heavier rail should be forthcoming along the river. Bolts, spikes and rail are considerably worn. Too many bolts were noted missing on the Lewiston end. A new dock was noted at Lewiston which greatly adds to convenience of transfer. The passenger stations were noted clean and ordinary repairs well made. Very few decayed cross-ties were noted. The line and surface of track was found very good. The right of way is kept clean and free from overgrowths. The curves are well braced as a rule.

West Peanut Branch.

This line has been given its share of betterment generally speaking, and will another year receive additional improvement.

The renewal of cross-ties has been quite large. Considerable attention has been paid to substructures by pointing and relaying and new floors have been placed on a number of openings. Considerable grading has been accomplished along the line. Some painting has been done on passenger stations, and ordinary repairs also made. Mile posts have been placed, and whistle posts, signs and boards nicely painted. This branch will another year be in excellent condition if the work contemplated is accomplished. More attention is suggested in the items of bolts, spike and cross-ties at joints. Some 17 miles of gravel ballast has been placed since 1894. Connection was noted finished with the Lehigh Valley. Distance semaphores have been placed all along the line. "Derails" should be placed at all points without delay.

Falls Road.

Twenty-five miles of new 65-pound steel has been placed since 1894. Six miles of cinder ballast had also been placed. Some 46,000 cross-ties, mostly oak, have been laid and, with few exceptions, this line is well "tied up." Foot-guards should be given more attention. Two facing switches have been eliminated since the last inspection, one at Spencerport and the other at Adams' Basin. There are no wooden stringers upon this line of 76 miles, except small openings of four feet, and these minor openings will, it is said, be covered over with solid rail floors or castiron pipe inserted. Twenty miles of new fencing has been erected in the last two years. Some of the passenger stations need paint. Ballast is needed in not a few places. This is a very busy line and heavier rail should be placed upon it soon. The clearance marks were noted well maintained. Trees too close were noted and should be removed without delay. The Erie canal bridge in Lockport is to have a new floor system. The principal bridges were noted well cared for and in good condition. A new siding at Hawley was noted, perhaps 1,000 feet long. More attention should be given to joint ties. Spare rail should be constantly kept on the racks. A large quantity of cinder ballast has been placed since 1894. The Oak Orchard bridge has been overhauled and is now in good condition. More attention should be paid to keeping the right of way well fenced. Some 40 sets of new (National) cattle-guards are to be placed another season. Bolts and spike were noted well in place, and all the minor items were found very well cared for. Shouldering out and grading was noted well in hand as was also the ditches.

East Peanut Branch.

This line has received considerable attention, including 10 miles of gravel ballast from Batavia. Twenty thousand cross-ties, mostly yellow pine. Ten miles of new fence. One new siding, about 800 feet long. One opening has been covered with rail. There are no wooden stringer openings. Some 15 sets of new (National) cattle-guards have been furnished. A through plate girder bridge (new this year) was noted at Stafford's station. Clearance marks were found in good condition. More attention should be given to spiking on angle-bars, and short pieces of rail should not be allowed. One place was noted with three short pieces of rail at switch, in the open, and not well fastened. The switch should be moved further east and longer pieces inserted. Your Inspector is aware that short pieces, if well fastened, may not be unsafe for some time, particularly if constantly watched, but the trouble is, neglect creeps in, spike get loose or broken, bolts break or are loose, joints get low, ballast may be scant, and the danger is imminent; pieces of rail less than 17 feet long should not be allowed anywhere in the track. Your Inspector was assured all of the six-foot pieces, in fact, every short piece, would be removed at once. "Derails" should be placed at every siding where the grade is downward to the main track, or where high winds are liable to blow cars on to the main track. Trees are too close and should be removed. Most of the switches have been interlocked since the last inspection. Considerable work has been accomplished upon abutments and piers along this line. One trestle was noted that is to be shortened more than one-half its present length. Arch culverts are being overhauled; one is to be rebuilt. Spare rail racks are to be placed this winter; guard-rail should be placed upon bridge floors; foot-guards should be placed; short pieces of rail should not be allowed on bridge floors in any event. Your Inspector was informed the three miles of square joints will be staggered soon. The ditches are well opened and the grading and "shouldering out" were noted well cared for. This line is greatly improved since the last inspection. The passenger stations should be given more attention, and repairs and painting given attention in a number of instances. The right of way was found in an orderly condition generally. The highway signs should be legal. (See article 11, sec. 33, R. R. Laws.)

Attica Branch.

Four thousand cross-ties per year have been placed upon this line. This road has not been given the attention it should have. It is 11 miles long, and has four trains each way daily, to attend to

the business. Every opening, it is said, is to be closed up another year, or this winter, with solid rail floors. Some new fence has been erected. The open pit cattle-guards are to be filled and surface-guards placed. Guard-rails should be placed upon bridge floors. The cross-ties were found in general good condition. This branch, compared with previous years, upon the whole, is not a little improved. The ditches have been opened, clearance marks were noted up good. Trees should be removed that stand too close to the track. Spare rails were found at frequent intervals along the line and well supported; short pieces of rail should not be allowed to remain in. Cross-ties should be spaced better and joints full spiked. The line and surface is very good, generally speaking. Another year will see this branch greatly improved.

Lockport Junction to Tonawanda.

This line remains about the same as when last inspected. A number of openings have been closed, however. There are no wooden stringer openings. The cross-tie renewals have been good and many of the minor items along the track well attended to. Joint ties should be kept in extra condition. The ditches have been opened and right of way kept orderly. This line will compare favorably with the other branches.

Charlotte Branch.

No improvements have been made upon this line and, aside from ordinary repairs and renewals, it remains as when last inspected.

Auburn Road.

Between Canandaigua and Brighton there has been six miles of ballast placed since 1894, and some 12,000 cross-ties this year. Four miles of 4½-inch steel rail has also been laid. Twenty-five miles of 4½-inch steel rail, 18 miles of fence, and about 10 miles of ballast has been furnished this road between Syracuse and Canandaigua since the last inspection. There has been considerable stone work, including arch work and overhauling culverts; also, abutments and piers. A new station has been erected at Fairmont. The Canandaigua yard has been rearranged and great improvement made. The switches have been interlocked since 1894. Ten stations have been painted since the last inspection. The line and surface is very good, and all the minor track details have been given a great deal of attention. The curves are all well braced and adjusted. Trees should be removed that stand too close to the track. The frogs are blocked, but every angle should

be guarded around switches. Spare rails were noted up at frequent intervals upon racks. Derail switches should be placed at every point where there is danger of cars running upon the main track. All of the passenger stations should certainly have names painted; signs should be kept up. Some 11,000 tie-plates have been placed since the last inspection. Short pieces of rail should be removed. Telegraph poles were noted too close to the track for safety. The embankment at Cayuga Lake has been filled each year, gradually, and another year will, no doubt, finish the work.

Geneva to Lyons.

This line has been much improved since 1894. The bridges are being gradually brought to an excellent condition of safety. A new line of telegraph poles has been erected, and were noted too close to the track. They should have been placed upon the opposite side, where the distance to the fence line is ample. The seven miles of square jointed track will, it is said, be replaced with heavier 80-pound rail. The cross-ties, ballast, and rail were noted in very good condition. The minor items, including spike and bolts, were found well cared for. This road should be double-tracked its entire length. The traffic upon it is heavy, and the rail should be proportionate. The ditches, fences, signs, boards, posts, shoulders, grading, line and surface, were found very well cared for.

Mohawk and Malone Division.

This division has been greatly improved in many items since the last inspection. Steam shovels and work trains have been constantly employed widening out cuts, lifting track in sags, widening out fills and filling in trestles since 1894. This work will be continued, it is said, until the trestles are all filled and the roadbed as a whole made permanent. The material being light and shifty, it is very hard to make and keep a solid roadbed, but the company seems determined to place this line in first-class condition. A large number of cast-iron pipe lines have been placed and openings closed up. Steel bridges, upon excellent stone abutments and piers, are frequently noted in passing over the line. The cross-ties, as a close rule, were found upon day of inspection in strong life and condition. Considerable new fence has been erected, and this property, except through the dense woods, is well fenced in. Another year will see the trestles filled and embankments widened if the present year's force is continued. A number of new stations have been erected. New sidings (permanent) have been laid in a number of places. Extra trackmen have been

employed this year, and the good effect upon the track and road-bed is very noticeable. The ditches have been cleaned out in the worst places, and an intelligent attempt made to drain wet cuts. The highway crossing signs should be of legal form. Switches should be kept locked when not in use. This rule should be strictly enforced. New train order semaphores have been placed at each station. This improvement was very much needed. The Black River trestle was filled, and recently washed out. It is now in temporary condition, and should be watched day and night. A slow order has been placed upon it. Guard rails should be placed inside the gauge rails upon all the bridges, and thoroughly spiked and bolted. Mile posts were noted up and well painted. The trees standing, whether on right of way or not, that are liable to be thrown upon the track by lightning or high winds, should be removed. An extra effort should be made to remove all stone, bowlders and loose rock that might roll or fall upon the track. McKeever's station was noted new since the last inspection. A new passing siding at Nelson's Lake, some 1,500 feet long, was noted. The Old Forge Railroad, from Fulton Chain station to Old Forge, is two miles long. It is laid with 65-pound steel, and has one steel bridge. One engine is used, and the N. Y. C. Co. furnish coaches. The summer traffic upon this short line is large, and precautions are taken to make it safe. Clear Water station is new since the 1894 inspection. Six more trestles are to be filled in the near future. Trestle No. 62 should be filled at once. The officials assured your Inspector this work would be attended to. Your Inspector would suggest that all the wooded box culverts under embankments be replaced with stone or cast-iron pipes. Your Inspector was informed these structures would be removed without delay. All of the short pieces of rail should be removed from main track. This work was promised without delay. At Tupper's Lake station the yard has been greatly improved, a new coal trestle erected and important betterments made. It is very important that spikes and bolts be kept in, full, at every joint. Many were noted missing, but orders were given upon day of inspection, and your Inspector was pleased to find that strict attention was being paid. More attention should be paid to cross-ties upon the north end. The spare rails at mile posts were noted up with very little exception. Great care should be given to keeping the joints around switches well bolted and spiked. A number of parapet walls were noted too close to the track upon the northern end. Wooden braces should not be relied upon at curves. The wood decays quickly and they are liable to be left in too long. The Malone yard was noted improved, and your Inspector was pleased to find a general desire upon the part of the officials to improve at all points along this line.

Saranac Branch.

The suggestions made at last inspection have been carried out to quite an extent. The shoulders have been filled out considerably, and surface and line greatly bettered. Clearance markers were noted up, and the posts and signs and boards were found well maintained. The cross-ties and rail were found in very good condition. The roadbed is in much better condition than in 1894. The switches were found in good order. The ditches have been cleaned and deepened.

Harlem Division.

Since the last inspection there has been many noticeable improvements, including 10 cast-iron pipe lines and 30 solid rail floors placed, closing up as many openings. There are now only four facing switches. Thirteen miles of 80-pound steel rail was laid in 1895, and 19 miles of 65-pound in the present year. A large number of semaphores have been placed, and many switches interlocked since the last inspection. One new station at One Hundred and Eighty-third street has been erected. Tie plates are being used at joints on all new rail. Fourteen extra masons have been employed this year, and the substructures have been greatly bettered. The wooden stringer openings were found in very good condition. The cross-tie renewals have been many, and the life was noted strong on day of inspection. The telegraph poles that stand too close the tracks should be removed at once, particularly those standing between tracks. Trees should not be allowed to stand near enough the track or tracks to cause derailment. Twenty-five new sets of (National) cattle guards have been placed recently. Spare rails should be placed at mile posts along the road. Officials said they would be soon. The wet cuts should be tile drained. Mile posts should be erected. The highway crossing signs should be of legal form. (See art. 11, sec. 33, Railroad Laws.) About 12 miles of Page woven wire fence has been erected since 1894. The cedar ties have been very well weeded out. Where highways cross the track at acute angles great care should be taken to keep fences up. Considerable ballast material has been placed, but much more is needed, and will be placed another year, your Inspector was informed. The grading and the line and surface of track were noted very good, considering meagre ballast. Rails should be drilled and bolts placed where needed. Too much care can not be taken in keeping joints well and amply bolted and spiked. The posts, signs, boards, targets and the like were found well painted and whitewashed. The stations have been given considerable attention. Tie guards should be kept strong and sound on small floors. The steel bridges were found in good form and well cared for. This division is noted for the large amount of

traffic it handles, and all other items which go to make the factor of safety greater, should be strictly attended to. The right of way was found clean and orderly.

Mahopac Branch.

All of the openings have been closed up on this line, up to the 13-foot span. While not much improvement has been made since the last inspection, the property is in very good condition considering the traffic upon it. The cross-ties were found in very fair condition with little exception. Another year will see considerable improvement.

New York and Northern Division.

Twenty three and one-half miles of 65-pound second steel of the N. Y. C. line has been placed since the last inspection. There has been no ballast, except cinders, of which considerable has been furnished recently. Fifteen miles of Page woven wire fence has been erected this year. Ordinary repairs have been made upon the passenger stations. Thirty-three thousand five hundred cross ties, white oak and chestnut, have been placed this year; 37,500 were placed last year, and 31,000 will, it is said, be placed next year. The Yonkers branch, three and three-tenths miles long, has received ordinary repairs, and is in very good condition. Considerable of it is elevated; and another year large renewal is to be made upon it. The line has been modified and curvature greatly lessened. A great many of the stations are on curves. Spare rails were noted up good. The wet cuts should be drained with vitrified pipe laid with open joints. Mile posts, whistle and numbers have been erected since 1893. More attention should be given the items of tie guards, bolts, spike, ditches and draining, trees, telegraph poles and the like. Great improvement, however, has been made upon this line since the N. Y. C. began operating. The bridges were all reinforced in 1895. Guard rail should be placed and amply spiked and bolted on bridge floors. Thirty-five sets of new cattle guards have been placed, and before spring 20 more are to be put in. Three thousand five hundred pairs of angle bars, instead of the old strap iron fastenings have been used. Great improvement was noted in the item of switches. Safety switches have been placed and should be connected up with main line switches, so as to move both at the same time. There are 168 curves on this 54 miles of road. Three new overhead steel bridges have been erected this year in place of wooden structures. A half through plate girder has been erected this year in place of the pile trestle. Bridge No. 50 was an old Fink truss, and is now a through plate girder bridge of modern design with solid floor. Twelve cast-iron pipe lines

placed this year, and five more to be placed this winter. Foot guards should be erected.

NEW YORK, ONTARIO AND WESTERN RAILROAD.

Main Line.

(Inspected July 31 and August 1 and 2, 1895.)

The improvements upon this line in the last two years have been many, and the betterments were noticeable as the inspection proceeded. The inspection began at Oswego. The officials informed your inspector that all wooden truss bridges would be removed before winter. South of Oneida some fifty miles of 76-pound steel rail has been laid since 1893. The sleepers, as a general rule, were found in very good condition, close together and of a good average section. Those too much decayed should be removed, particularly at joints. The renewals this year have been very fair. Four hundred thousand ties have been placed upon this system since 1893; 50 per cent. being hard pine and the balance chestnut. The new 76-pound steel rail has a good section being 5 inches on base and $4\frac{1}{4}$ inches high. This section, when the excessive curvature is considered is thought to be the best; high rail is not approved by the officials. The adjustment of track was noted very good all along the line. Bolts and spikes appear in good form and in ample quantities. The practice of not full bolting and spiking new rail when first laid should not be continued. It is a little more trouble and takes more time to properly fasten the newly laid rail, but it is much safer and should be done. The ballast north of Oneida is very meager, and another year should certainly see this end properly ballasted. South of Oneida culm and cinders are used to quite an extent and considerable gravel ballast was also noted, still there are many places needing material to properly uphold the track. The freight traffic is very heavy over this road, and low joints can not be elevated without good ballast. The fences, as a rule, were found well attended to. The track force does not seem to be ample for the work expected of it. The highway crossing signs were found up in strong condition, but needing paint in many instances; many new signs were noted. The track force north of Oneida evidently does not have time to properly keep the ditches open and on good grades. Grass, weeds and brush were being cut upon some sections on days of inspection. Crossing plank generally were noted sound and well laid, though too many instances were noticed needing renewals; good work has been accomplished in a number of places in lessening curvature and grades. The switches are mostly of the split-point pattern, though not a few Wharton's were noted. The stubs should be removed. No clearance marks were noted at

switches and sidings where cars stood. Upon a road of this kind where sidings are used next the main track to store cars, too much care can not be taken in keeping a proper distance from main track at all times. Everything about the switches, ties, targets, stands, springs, points, fastenings, etc., were found very well attended to. The stone culverts under embankments were placed in good condition last year, all overhauled and pointed up. The stock guards consist of wooden slats, wings and cross fences of good design, though a number of instances were noticed needing repairs, particularly north of Oneida. The passenger stations were found in good repair and with few exceptions in good life of paint. Too much wood bracing was noted, and shims are left in all summer. This practice should be discontinued at once. Large quantities of iron and steel bracing was noted on curves, though there is still great opportunity for their use. The right of way, as a rule, is very clean, though stumps, old ties and track debris were noted in not a few places. Shoulders were noted slack in too many places. About one and a half miles of stone ballast was noted near mile post 263. The passenger station at Randallsville was found enlarged and newly painted; also water-closets fenced and new as suggested by your Honorable Body last winter. The accommodations here are now very good. Derailing switches were noted on nearly if not quite all sidings where cars stand. Two new passenger stations were noted erected since last inspection. The general superintendent designed them, and great care was evidently taken to give proper accommodations to the public. The field notes show in detail the condition of the structures and age. Your inspector is pleased to report that the wooden structures, trestles, waterways, cattle passes, and the like have all received attention, and most all have been overhauled and removed where necessary within the last two years. There are some stringers and bents, however, though not many, needing renewal at once. Your Inspector wishes again to speak of the very poor practice of covering sills. This is not wise or safe. It precludes proper inspection, and should not be allowed. Timber kept from the air as in water, will last a very long time. But the trouble with the sills in cattle passes, waterways, and trestles, is, they are subjected to a few days of moisture and then a short time of dryness, and the effect of these variations cause the timber to decay quickly. The excuse was made by some of the officials that it was next to impossible to keep sand and loose material from sifting down upon the mud sills. A little attention would keep them uncovered. In too many cases, however, there is turf upon the sills, showing conclusively that neglect and carelessness is the cause. Sills should rest high and dry upon stone foundations when properly laced, though upheld by wooden blocks is the general custom. Your Inspector would suggest that every sill upon

the company's lines should be unearthed and properly placed in dry position without delay. The danger of sudden settlement of a trestle or bridge and the consequent derailment and damage to life from carelessness in this respect is very great. Your inspector would also suggest that all bents directly in the line of flowing water in the mountain streams be removed from the danger of being undermined and washed laterally. Freshet water carrying logs, trees, ice, and forest debris, is the cause too many times of sudden failure of trestles and loss of life. There are not many such instances upon this road, but delays should not be allowed in removing any chance of failure. Yellow pine stringers were noted upon all structures of wood, with few exceptions; soft pine prevails in some instances but was found sound and strong. The metal structures were found in strong condition and well cared for. The Lyon Brook steel viaduct, taking the place of an old and insecure structure, was completed last year and is a very strong and well-made structure. It is 150 feet high and 820 feet long. There are three spans of 80 feet, 2 of 50, and 8 of 30 feet. The batter of the old towers was 1 in 8, the new is 1 in 6. The trestle at south end is to be filled also at north end. This viaduct is now in extra condition; also piers and floor ties. A number of wooden trestles found in poor condition at last inspection have since been renewed in steel as viaducts. The few wooden Howe trusses are to be removed before winter. The great number of structures upon this road precludes speaking of them in detail, though field notes show condition of each. A large number of the minor openings have been closed by utilizing cast-iron piping. The work of tightening rivets and extending the approaches of through and deck spans is progressing and by winter will place the large spans in good condition. The tunnels were all found in good condition, and protected by electric signals. Last year a rock gang cleaned and trimmed the rock cuts and on days of inspection very little loose material was noted. Aside from the necessity of increasing the track force and placing of good ballast, the inspection was satisfactory in the general sense. Some ten miles of new sidings and spurs have been added since the last inspection.

Delhi Branch.

This branch is 17 miles, single track, standard gauge, 56-pound steel, and extends from Walton to Delhi, and was constructed in 1871. Three thousand five hundred ties have been placed this year. This line remains about the same as when last inspected. Some improvement was noted, including new milk-bottling house, at Delhi. Twelve men are expected to keep this branch in good, safe condition. It should not be expected, and the evidences prove that it can not be done. The grass and weeds upon the track

were so thick your Inspector could not well see the ties, bolts and spiking. Shims were noted under the rail, at and between joints, in too many instances. The ditches should receive more attention. The business upon this branch, while not very extensive, is enough to admit of keeping the track and adjuncts in good condition. The fences were found in good state of maintenance as a rule. The highway warning signs were found up, but not a few are in need of paint. Grass and weeds were found cut to some extent on right of way. The curves are braced fairly well. The cattle slats are of wood and in fair condition. This road needs ballast very much. The adjustment and surface would be much better if ballast could be had. Enough care is not taken, owing to small track force, in proper bearing of rail at joints. Five split-point switches have been placed since last inspection. The passenger stations were found in good condition, neat and clean. The structures were found in very fair condition, the bents, in general, being renewed in 1890, and the yellow pine stringers in 1892. The "A" truss No. 4, built in 1883, should be removed. The trestles are mostly for flood room, and are constructed of hard pine, and found in strong condition. Not a few of the structures are upheld by piles and these appear in good life. All of the floor ties were found strong and in good position.

New Berlin Branch.

The inspection began at Edmeston. This branch has received some attention, though 18 men on 20 miles of track are not enough. The track is nearly covered with grass and weeds. Your Inspector made as good an inspection of the ties, rail, spiking, bolts and fastenings as the grass and weeds would allow. The rail is 50-pound and seven years old from Edmeston to New Berlin. From this latter place to the junction with main line, about two and one-half miles north of Sidney, the rail, while light in weight, appears good. All stub switches should be replaced with those of modern pattern. The ditching has been given a little attention, though not enough. The ballast material is meagre, and an effort should be made to raise the track with good material. Seven hundred and eight feet of cast-iron piping have been placed at small openings and structures removed since last inspection. Water, in case of fire, was noted upon all wooden structures both upon the main line and all branches. The fences are maintained well considering limited track force. The ties, as seen generally, appear good, though many were noted needing renewal. While progress has been made in the last two years in reducing the number of small openings too many still exist, and an extra effort should be made to close up more of them. The

structures were found as a rule in excellent condition. The new through wooden Howe trusses, erected in 1893, appear well. The sills were found covered here as on the main line, and the same suggestions are pertinent as made upon those above referred to. Most of the structures were overhauled and renewed where necessary last and this year. Some soft pine was noted in structural work. Not a few of the trestles can be filled, and should be without delay. This section of the State does not seem to be productive of good stone for bridges. The shims should be removed, but without ballast this dangerous condition of things must exist; ballast should be forthcoming. The iron Phoenix column viaduct, built in 1869, needs paint badly. It should be rebuilt as soon as possible. Officials say it was overhauled last year; looks quite light in metal.

Rome Branch.

This branch from Clinton to Rome is 12 miles long, single track, and mostly laid with 62-pound steel rail. The structures have been all overhauled this year, and were found in a good state of maintenance upon day of inspection. About 4,000 ties are yet to go in this year. The track force here was found inadequate, and the track surface and ditching was noted poor. Ballast is also needed very much. There are four trains daily. There is not much business, but more attention should be given the track. The fences are in very fair condition. The stub switches still remain as a rule. A few have been removed in the Rome yard and points substituted. Some work has been accomplished in placing iron pipe and closing openings, though not to any extent. Warning signs at highways appear well, and some improvement was noted in the item of track surface. The joints should receive more attention. The cross fences, wings and cattle slats were noted fairly maintained. Grass and weeds on the track are quite thick, and little attempt is made to remove them. The crossing frogs have been taken out at Rome, on New York Central tracks, since the last inspection. The Howe trusses now bented should be removed as soon as possible and deck plate girders placed. The masonry is poor at a number of the openings and an extra effort should be made to relay with good, sound material. The through lattice bridge needs paint. I beams are to replace wooden stringers before winter. The passenger stations were all found neat and clean and in good repair.

Utica Branch.

This branch has been greatly improved since 1891. Some 840 feet of cast-iron piping have been placed where were small open-

ings. The rail upon this branch is steel, 62 pounds per yard, D. & H. section, and in fair condition. Three new creameries have been placed along this branch since 1893. The ditches have been attended to fairly well, and the grass and weeds have been cut. The ballast material is very fair as a rule, though low joints were noted in many places. The warning signs need paint. The cross fences, wings and cattle slats were noted whitewashed and well maintained. The shoulders need more material along this line at a number of places. The crossing plank were found generally in good condition. The structures were all found in good condition, having been overhauled this and last year. New plank-ing, adjoining the track through Utica, on Fay street, was noted. Some new I beams were noted placed recently, and the masonry was found good. Near Clinton was noted a new through riveted truss, 80 feet span, over creek, in place of Howe trusses. A new pony through lattice truss bridge this year was noted of good design, and a great improvement over the old bridge. Near Oriskany Falls was noted eight bays of trestle, overhauled in 1891, having bents in bed of creek. They should be arranged so as not to interfere with the free flow of water, and so that ice, logs and floating pieces will not lodge. The rail fastenings do not receive enough attention. The passenger stations were all found fairly well maintained and clean.

Ellenville Branch.

Very little improvement was noted on this branch since the last inspection. The track force is too small to properly care for the adjustment, surface and grading. There are six trains daily each way. All of the stub switches are to be replaced with split points before winter. Very little ballast was noted, and the road looks neglected. One mile of cinder ballast has been placed since the last inspection. The fences have been kept in fair condition, and upon day of inspection few were seen needing attention; the officials said four miles had been repaired since 1893. Not as much grass and weeds were noted upon this line as upon some others. The crossing plank have been renewed in a number of places, and this item, as a rule, is in good shape. The highway warning signs were found in good form and fairly maintained; some need paint. The curves were noted braced, and the spiking and joint fastenings in good form. The ticket office at Ellenville has been enlarged since last inspection. Ties were noted in strong condition and closely spaced. The section is very good as a rule. The rail is somewhat worn, but is still serviceable. The timber A truss near Ellenville remains and is bented. This structure was erected in 1880, and has outlived its usefulness. It should be removed at

once. The small openings were found in very good condition as a rule, though some were noted in need of repairs. Stringers are all pine. One of the A trusses is being replaced with I beams. This is proper, and the other referred to above should be treated in the same manner. An effort should be made to close the small openings where possible. This branch does a good business and more work should be accomplished upon it. The track force should be increased, and ballast should be placed where needed.

Scranton Branch.

Nothing of importance was noted new on this branch since the last inspection. The two and one-half miles in this State was found in good condition. The line in the State of Pennsylvania is a very important factor in this system. Most of the coal comes this way. The adjustment of track, spiking, bolting, ties, ballast, and general features were found well cared for. The structural work is massive and permanent. The passenger stations were found in excellent condition, and the masonry was noted sound and strong. The piping noted on hand in last report has been placed. The ditching was found well attended to.

Sylvan Beach Branch.

This branch is about one mile long and accommodates large numbers during the summer months. The station and platform at the beach is large and ample. The track and adjuncts were found in good condition, and care is taken to keep everything in good order. There are no openings.

NEW YORK, SUSQUEHANNA AND WESTERN RAILROAD.

(Inspected May 19, 1896.)

This property has been greatly improved since the last inspection, and in accordance with the recommendations of your Honorable Body. The structures were found in very strong condition as a rule. The highway signs need paint badly. Four thousand ties were placed in this State last year. Iron pipe has been inserted in a number of places and openings closed up. This line needs ballast; cinder ballast has been placed to some extent. The fences were in good, strong condition. The tie life was found as a rule strong, close together and of good section. All old milk stations or platforms, not in use, should be removed. Bolts and spike, generally, were noted good. Names should be placed upon stations. Guard-rail should be placed upon all bridge floors. Attention should be given to removing all trees standing upon the right of way or near enough to be made dangerous by lightning or

high winds. Unionville station was found in much better condition than when last inspected. Yellow pine stringers are largely in use and all strong in life. Derailing switches were noticed at all sidings. The rail remains as previously reported. The line and surface of track was very good upon day of inspection. The curves were also found in good adjustment. State Hill station is old and needs attention. Drinking water should be always kept in easy reach of the patrons.

NEW YORK, NEW HAVEN AND HARTFORD RAILROAD.

(Inspected April 11, 1896.)

This road, in the State of New York, is maintained in extra condition. The improvements through Mount Vernon have been extensive, and the company is to be commended for the abolition of highway grade crossings. Very little was found to criticise upon the main line; rail joints, cross-ties, passenger stations, ballast, switches, bridges and, in fact, all the items which go to make up the permanent way, were found in splendid condition, with very few minor exceptions. Girders should be kept free from the back walls, and lower plates clean. Guard rails should be maintained on bridges. Last year 70,000 ties (mostly chestnut) were placed. Twelve miles of 100-pound steel rail has been laid since 1894. No extensions of line were noted in the State. About 12 miles of broken stone ballast has been placed and the track raised about 14 inches. There are but three facing switches and two are on draw slips and all worked from towers. The 100-pound rail is laid with suspended joints, staggered, and the fastenings are 24 inches long with four bolts. The passenger stations were found modern, of excellent design and having all conveniences. Ties on bridge floors should be spiked full. Eighteen ties per rail length were noted as the average, and of large section. The New Rochelle station is to be rebuilt of modern design this year. The guard timbers on bridge floors should be splayed at ends. Some were noted too short for approaches. Shims should be removed as soon as possible. Foot-guards should be placed at all angles and dangerous points. This company would profit greatly by draining wet cuts with tile laid on boards, and with open joints. Fences were noted between tracks at stations and gates kept locked. Spare rails were noted up, and great care taken to keep the property neat and clean. A number of abutments and arches were noted along the main line in anticipation of street openings; while expensive, this plan is the best. The bridge structures all appear amply strong; metal has not been spared and the substructures are massive and well pointed, and of good material. The bridge floor systems were also found very

strong. It is said the Harlem River branch is to be four-tracked this year. One sill on the 800-foot dry trestle near Woodside was found covered. This is poor maintenance. It should be free and upheld by blocking or, better still, on a stone pier. This trestle should be filled. The through Howe truss over street and now bented is to be replaced by a steel girder this season. The structures upon this branch, while safe now, should be watched very closely; sudden failure would cost many lives. It is the company's intention, when four-tracking, to renew and fill the bridges and trestles. The 3,300-foot trestle near Bay Chester should receive extra care; the officials informed your Inspector it had all been overhauled since 1894, and no timber allowed in that was at all decayed. Indications upon day of inspection seemed to verify this. Bridge No. 131 has been filled in as suggested in last report. This line handles large quantities of freight and the engines are very heavy. The Port Morris trestle has been mostly filled, and the stringers will be removed soon. This is an excellent improvement, and when the tracks are raised, as they are to be this season, all the work will be of the very best. The trestles should all be provided with water in case of fire. The wooden structures, while receiving constant attention, should not be allowed, in any part, to come near the danger limit, and all bents should be kept plumb.

NORTHERN CENTRAL (of Pennsylvania) RAILROAD.

Main Line.

(Inspected July 15, 1896.)

From Canandaigua to State line, south of Elmira, the sleepers or cross-ties were found generally in fair condition, though many were noted needing renewal. The renewals in 1894 were 35,500; 1895, 44,000, and in 1896 are to be 39,000, of which 11,300 are now in and some 16,000 distributed. In 1894 one and eleven hundredths miles of 70-pound rail was laid; in 1895, seven miles, and in 1896 two and three-fourths miles. In 1894 very little ballast was placed, in 1895 29 miles were ballasted, and in 1896 10 miles will be placed. This will raise the track about 5 inches. Much more is needed. Considerable grading has been accomplished, and the officials say much of this work will be done in the near future. Shoulders should be filled out. The alignment was found very fair for stretches, and at other points much work was noted as needed in this item. The adjustment of track should be given more attention, though good work has been done in this direction. The item of spiking should be looked after. There can be no excuse for not having an ample quantity of spikes in proper posi-

tion. Bolts were noted, as a general rule, in very good condition. The new 70-pound steel rail is bolted with the nuts upon the inside. This road, with the Lehigh Valley, are the only roads of the State that have experimented in this direction. Favorable to this method are the arguments, first, that the nuts remain tighter, owing to freedom from oil from journals; second, less liability of shearing the bolts by derailed wheels, because the flanges are always away from them; third, greater facility for the track walker to watch them, and fourth, in the winter the inside of the track is free from snow when the outside is not. Where six bolts are used per joint the two end ones should be reversed to surely cover the possible chance of the tread of a derailed wheel doing damage. The joint fastenings were generally noted free from cracks and breakage. The rail appeared upon day of inspection in good state of wear. The fences should be given considerable attention. This is an important item. Snow fence has received attention. In 1895 two miles of seven-foot fence was erected, and some five miles of round twisted wire. So far this year only ordinary repairs have been made, though two miles of snow fence is expected to be put up before the winter. The grass and weeds have been attended to fairly, though not as well as desired. Along the right of way the work of cutting and removing the grass, weeds and brush was being pushed on day of inspection. The switches are all split points and very well cared for. Bolts and spikes should be ample in and around these very important parts. Locks should be kept fastened when switches are not in use. Three switches have been removed since the last inspection and dead ends substituted. This practice is commendable. Considerable work has been accomplished in clearing out ditches and draining wet cuts. Great benefits are derived from this kind of work. The highway warning signs at grade crossings should receive attention, and be erected according to the State law. It is very important to properly maintain crossing plank. More care is suggested in this item. The culverts under embankments have all been overhauled and are now in fair condition. The cattle guards have received attention, but not enough, they should be kept in constant repair. The passenger stations were found well cared for, neat and clean as a rule. Drinking water should be kept constantly on hand. Shims under the rail in fair ballast shows neglect. They should not be allowed to remain so long. The track force should tamp up and remove them early in the season. The curves should be better braced. All of the curves should be lined by instrument and sign boards placed giving number of curve, and elevation in inches; also degree of curvature. The right of way was noted, as a rule, free

from debris and track refuse. The property generally, upon day of inspection, appeared in good condition. Spare rail should be kept at short intervals along the line, in case of accident, and when removed an additional supply should be placed. Clearance marks were noted missing. This important item should certainly be kept at all times in place. A very good mark, and one cheaply kept, is a board nailed to the end of the ties at the proper distance, and ballast or dirt approaches graded up to it. Posts are objectionable and a source of danger to employes. Derailing devices were noted at sidings having downward grade to the main track. Too many trees and telegraph poles are dangerously close to the track. Foot guards should be placed at all points. A careful inspection of the structures along this road showed considerable attention, but not enough. Sills should not be covered and great care given to place guard rails upon every opening over small creeks. The practice of placing guard rails upon every structure over 10 feet span prevails generally. Many openings were noted that should be closed up with cast-iron pipes or stone boxes. The Flint Creek structure, erected in 1867, should be removed and replaced by steel. It is a deck Howe truss, bent and arched, and a man watches day and night. From Elmira to the State line are three through Howe truss bridges and one beam opening, all in fair state of maintenance, though the Howe trusses should be renewed with steel. A new deck plate girder bridge was noted in course of erection over the Fall Brook tracks at Penn Yan, replacing an old Howe truss. It is proper to say that great care has been exercised in keeping the wooden bridges well roofed and sided up. It is urgently suggested that an extra effort be made upon this road to fill or narrow up many of the trestles. Near Himrods is a trestle that is to be replaced with steel and stone abutments. Quite a few "I" beams were noted upon fair masonry. The structure over Big stream should be renewed and line changed west where the creek is narrower. This plan is talked of and should be accomplished without delay. Over Rock stream is a through Howe truss bridge erected in 1875. It is bent now and should be filled or an iron or steel viaduct erected. Over Rock Glen is a short Howe truss. This opening should be filled. At "coal switch" a retaining wall should be erected on the lake side. Near the Watkins station is a warehouse standing very close to the track. It is high and leans over toward the track badly. No delay should be allowed in plumbing this building. The Pine valley trestle is now filled, line charged, and two through plate girder bridges erected. This work was very much needed and the company is to be commended. With so many wooden structures the carpenter force should be ample to constantly keep in good repair.

Stanley to Sodus Point.

This line is a single track, 34 miles long and standard gauge. Two switches have been eliminated since the last inspection. Clearance marks should be placed at once; also foot guards where foot guards were needed to protect employes. The back of frogs are now filled with metal; 60-pound steel rail prevails upon this line. The highway crossing signs at grade are not in accordance with the State law. Ties were noted needing many renewals. Considerable renewals has been made so far this year but many more are necessary, particularly at joints. The curves were noted in very poor condition. They need to be relined with instrument at once. There is not much traffic upon this line, but the various items should nevertheless be kept within the safe limit. Trees that stand close to the track should be removed at once. The cattle slats need repairs. Grass and weeds should be kept from between the rails. Sufficient help should be had to keep the road nearer the average of the other lines of this State. Ten thousand seven hundred ties were placed last year, but not so many this year, instead of having spare rail up along the line at every mile post, five rails are kept at ends of sections. Ballast is needed badly. New mile posts have been placed since the last inspection. More attention should be given to keeping the crossing plank in good repair. Switch locks should be attended to very carefully and securely fastened when the switch is not in use. The switch lights and targets are high and good. There are 32 men on 34 miles of main track, but they have to attend to many other items. Rail-saw, drill, and bender, should be always near at hand. Bolts and spike as a rule were noted well in and fairly tight. Too much attention can not be given these important items. All the cattle slats are to be renewed this year. Train order semaphores were up at stations. Telegraph poles were noted too close to the track, and should be removed at once. Ballast material in bank was noted and should be utilized. All broken rail at joints should be replaced. Fences were noted up as a rule. The company should have water at bridges, at stations, and guard rail at openings. The track should be raised upon this branch without delay. Masonry at openings should receive attention. Iron built beams should be placed at many of the minor openings instead of wooden stringers. Open pit cattle guards should be filled up without delay. Arches of wood were being placed in Howe truss bridges upon day of inspection and bented where needed. New steel structures should replace these old wooden Howe trusses as rapidly as possible. Cast-iron pipe can and should be placed at many of the minor openings. Flint flag station should be remodeled or renewed and made larger and fairly comfortable. Upon this 34

miles are 11 trestles, two deck plate girders, three half through plate girders, four stringer openings, three Howe through truss bridges, one through Pratt, and two deck plate girders, besides many openings under 10 foot span. The passenger stations were noted fairly well in hand as regards repairs, though not enough attention is paid to painting.

NORTHERN NEW YORK RAILROAD.

(Inspected June 17, 1896.)

This road, formerly known as the Northern Adirondack, extends from Tupper Lake village to Moriah Junction with the Central Vermont road. The Bombay Branch, extending from the last named junction to Bombay Junction, is now leased and the trains when necessary run through. The entire road is standard gauge. Considerable improvement was noted since the last inspection, and much more should be made this season. Nearly a mile of new siding has been laid at Tupper Lake, Childwold, and Saranac Junction station. The road is very crooked and many betterments in alignment could and should be made. Have recently changed and considerably modified a summit called State Road Hill. The offices have been changed from Santa Clara to Tupper Lake. Bridge No. 41, is now a steel deck plate girder of 70 feet span in place of old Howe trusses. Air brakes, signal and steam heating have been introduced since the last inspection. Eighteen thousand ties have been placed so far this season. Ties are cut from local timber, and very little criticism could be made of this important item. All of the timbers in the structures should be carefully examined by boring, and renewals where necessary made at once. Cast-iron pipe could be utilized economically in many places to close up small openings, and it is suggested that this be done. All trees should be removed that stand close enough to fall upon the track. Trains are not run at night, but notwithstanding this fact the excessive curvature would alone necessitate clearing the trees all away. There are 111 structures on the road proper of 54 miles. This is excessive and an earnest effort should be made to greatly reduce the number. Your Inspector was informed cast-iron piping is to be used this season to close up old and dangerous openings. Bridge No. 82 is a low trestle on piles with caps, many of which are badly decayed. It is 193 feet long and has 19 bays. No delay should be allowed in making absolutely safe all the structures. A bridge or trestle will stand when the members are not perfectly sound, but chances are being taken when the timber is partly decayed. Trusses are not figured upon as decayed timber, and sudden failure takes place many times where knowledge and long experience would seem to argue otherwise.

Bolts were noticed fairly in at rail joints, although many were found missing. This should not be. There should be an ample number of drills along the road; also a rail saw. The highway grade warning signs should be painted without delay and a nine-inch letter used. The structure over the St. Regis river is now bented up. The wooden trusses are decayed beyond anything like a safe limit. Through plate girders should be erected without delay. Clearance marks should be placed at every switch. Foot guards should be placed and kept in good repair. Bridge No. 39, is over a highway and should be renewed in iron or steel immediately. The president of the company says that the road is to be bettered and made perfectly safe this season. About \$50,000 is to be expended. The structures, particularly the trestles, upon the Bombay branch, should be overhauled. The stringers are not strong enough for heavy motive power, and general attention should be given each. The passenger stations were found in a fair state of maintenance, and platforms generally good.

[The Board was assured by the officers of the company that the urgent repairs recommended by the Inspector would be promptly made and the road generally improved.]

PHILADELPHIA, READING AND NEW ENGLAND RAILROAD.

(Inspected May 20, 1896.)

This inspection began at Campbell Hall. There has been no extension of line since the last inspection. This property is at present in a receiver's hands. Six sidings, at various points, have been laid lately, amounting in all to 3,500 feet. Some 14,000 ties were placed upon the main line last year. Seventy-pound steel rail was noted upon the main line, excepting about six miles. Cross ties are needed to a considerable extent to keep this road up and safe. The company's officials promised that this would be attended to at once. The road was constructed as far as Silvernails in 1890. Joint ties should be in strong condition. Fisher joint-plates are in use and well maintained. The nuts are kept in place and tight. Crossing plank should be renewed where needed; more attention is suggested in this item. Spare rails were noted up at short intervals. Trees should be removed where too close to the track. Danger from lightning and high winds should be avoided. The structures between Campbell Hall and the Hudson river bridge were found well maintained generally. Paint is needed in many instances upon the girders. Snow fences have been erected at a number of points and remain sound and in good position. Derailing switches were noted at all sidings

having downward grade to the main track. All girders should be kept free from the back walls. The alignment and adjustment of track was found very good, considering the condition of the ties. A number of open pit cattle-guards were noted. These should be filled up and slats used where feasible. The bridge over the Hudson river was painted last fall at a cost of \$10,000. The piers and abutments were all overhauled, grouted and repaired where needed. Attention was also paid to adjustment of members. Shims should be removed at once, and assurances were given that this would be attended to. Since the last inspection a number of new creameries have been erected at various points along the line and considerable traffic in milk is now carried on. A number of wooden stringers were found, which, while not dangerously weak, should be renewed for proper safety. East of the bridge more attention should be paid to ties, joints, approaches, floor ties, guard timber, guard-rail, stringers, and spiking, particularly on floors. Last year a trestle 1,900 feet long was filled, and a 40-foot through plate girder bridge placed. This work was much needed. The track at this point was raised about two and a half feet. The highway warning signs were noted up in very good state of maintenance as a rule. This company should pay more attention to properly draining the wet cuts. The through plate girder bridge over the Poughkeepsie and Eastern Railroad, referred to in last report, should be attended to at once. One new girder is needed to replace the one now broken and overhanging. This bridge is now shored up. The company has had the matter before them more than once, but have failed as yet to attend to it, therefore it is urgently recommended that it receive immediate attention. A derailment or accident upon the Poughkeepsie and Eastern Railroad at this point, knocking the false work down, might cause great loss of life. Considerable money must be expended if this road is to be operated safely. It does not average well now. A lack of help was noted in the track department on both branches and main line.

Hopewell Branch.

This branch was constructed in 1892, and is single track. The line is laid with 70-pound steel rail and six-bolt angle-bars. Wet cuts should be properly drained. Too much care can not be taken upon bridge floors to spike each rail joint fully and spike every tie. The structures upon this line should receive more attention. There are only four men upon this 12 miles of track, not enough to keep it even well spiked. A floating gang is placed upon it for a short time each year. Highway signs were noted too small as regards the letters. The trees overhanging and

standing close to the track should be removed at once. The property was found well fenced as a rule, though places were noted needing repairs in this item. Tile pipe under the roadbed should be removed; the frost and ice cracks it at ends and sloughing and caving occurs, endangering the track. A number of new flag stations were noted since the last inspection, small, but ample in size and comfort. The trestles should be watched carefully and chances should not be taken with partly decayed timber. The ties should receive attention and renewals should be made at once where necessary.

Rhinecliff Branch.

This is a single track, 22 miles long. The 56 and 60-pound iron rail has been relaid with 60-pound second steel since the last inspection. Five stub switches still exist, though split joints have been and are gradually being inserted. Eight split points are now in use. Six men try to take care of this branch, too few in number. Trees should be removed where too close to the track. The walls of one minor opening were noted needing immediate attention. More spikes are needed at rail joints. Grass was noted upon the track. All of the abutments overhanging or leaning should be relaid at once. Some small openings have been filled since the last inspection. The small openings appear in about the same condition all along the road, poor and patched up. Quite a number of unsound cross ties were noted. Bolts around frogs and switches at joints in the open, spike at joints, and on bridge floors, ties and masonry; also stringers and the like should be given extra attention. The sided and roofed Howe truss bridges are as far as could be seen in fair life yet, though iron and steel are now cheap enough to economically take the place of wood. Crossing plank are needed at many places.

Another inspection of this road was made on November 13, 1896, and the Inspector reported as follows:

*To the Honorable the State Board of Railroad Commissioners,
Albany, N. Y.:*

GENTLEMEN.—An inspection was made yesterday of the Philadelphia, Reading and New England Railroad, of improvements made since the last inspection in May, this year. Between the Poughkeepsie bridge and Campbell Hall 8,400 cross-ties have been placed. Considerable work has been accomplished upon piers 4 and 5 in the Hudson river by filling with "grout" and "point-

ing." Bridges Nos. 128 and 131 have been overhauled and new floors placed. New elevation block have also been placed upon bridge No. 124. About 100 carloads of cinders have been placed between the bridge and Campbell Hall. A new water station was also noted in course of progress near Modena station. Sixty coal cars have been rebuilt. Between the bridge and Silvernail Junction trestles No. 97 and 102 have been renewed entire. Twelve thousand cross-ties have been placed; they are yellow pine, oak, chestnut, 6 x 9 inch section and eight feet long. Some 30 carloads of cinders have been placed. Repairs to flooring have been made upon all trestles. Considerable work has been accomplished in the item of crossing plank, repairs to fences, platforms and the like. The ditches have also been cleaned out and all of the wet cuts given attention. Between State line and Silvernail 6,354 cross-ties have been placed, consisting of yellow pine, chestnut and oak. The line and surface has been greatly bettered. Extra men have been employed in the road department and good work has been accomplished. The trees standing too close to the track are to be cut away within a few months. The wooden Howe truss bridges are to be eliminated in the near future, the one near Gallatin station is to be replaced with a steel deck girder bridge without delay. This good work should go on as it is absolutely necessary for the public safety. Bolts and spikes are being placed where needed and general attention given to track details. Next year the tie renewals should equal the amount placed this year, and then 300 per mile per year will keep the road in very fair condition. The Rhinecliff branch has received 5,337 cross-ties and six miles of new fence. Large improvement has also been made upon the Hudson river dock. The line and surface of this branch has been greatly bettered and bolts and spiking have received considerable attention. Every bolt and spike should be kept in place and all old, worn-out bolts should be replaced with new ones at once. Extra trackmen have been employed upon this branch and its present condition shows the effect of good work. The Hopewell branch remains in very good condition, generally speaking, and considerable betterment has been made. The crippled girder over the Poughkeepsie and Eastern Railroad is to be overhauled and made safe in the near future. The material furnished and work accomplished by the receiver of this road is to be commended.

Respectfully,

F. K. BAXTER,

Inspector.

Dated UTICA, N. Y., November 14, 1896.

PORT JERVIS, MONTICELLO AND NEW YORK RAILROAD.

(Inspected June 2, 1896.)

The inspection of this single track road began at Port Jervis. Your Inspector was greatly surprised to find this road positively unsafe for the transportation of passengers. It has been neglected so long that extensive work and material is needed before a proper factor of safety can exist. The cross ties were found, with little exception, very poor; ties so decayed that dust only remains for quite long stretches, with spike missing and bolts gone. While there is a good gravel bed on the line no ballast has been placed and the ties are imbedded in the mud and soil. The entire road needs ditching. On the 42 miles of road 30,000 ties are needed at once. One of the worst features of this road is the conditions of the rails at joints; over-decayed ties are allowed to exist at the rail joints, with spike and bolts missing. Many joints were so loose that the rail seemed sure to turn over as the inspection train passed along. The above conditions were noticed upon the steel rail sections. Upon the parts of the road laid with old iron rail the conditions were worse, if possible. This old material should be removed at once. Short pieces were noticed from four feet upwards, with only one and two bolts per joint, with ties too far gone to hold the spike, which either laid alongside the rail on the remains of the ties or stood from a half to three-fourths out of bearing. The rail has been battered and broken at the ends so that the only wonder is that the wheels remain upon it at all. Last year some five miles of second steel rail of about 60 pounds per yard was laid. Promises were made by the superintendent that some \$50,000 is to be expended in placing this road in passable condition this year. It has changed hands recently, and the new owners, it is claimed, intend to reconstruct the property. Twenty-one men is the force to keep up 42 miles of road. The highway warning signs are unlawful, being too small; the letters are about six inches in height. The signs have not been painted in years, so that the letters are all but obliterated. Cattle-guards are not maintained; trees overhang the track and others are too near for safety. The alignment and adjustment of track, particularly upon curves, of which there are many and quite sharp, is very poor indeed. Stub switches were noticed in very poor condition. The track for miles was covered with grass and weeds. The right of way is strewn with brush, decayed ties and debris. The openings in the roadbed were found, as a rule, to be exceedingly poor. Upon the line between Huguenot and Summitville the structures must have immediate attention. Trussed stringers and A-shaped trusses abound, many of which were too far gone. While some attempt has been made to repair the long trestles,

stringers, caps and posts were very much decayed and in need of immediate renewal. South of Summitville were some 29 small openings positively unsafe. Not a few of the A trusses were found entirely neglected, parts and members not in bearing, timber decayed, nuts loose, floor ties not properly upheld, approaches dangerous and no protection against fire. These structures should be replaced at once with iron girders. The small openings referred to above should be spanned with I beams. The summer travel begins about June 15. Your Inspector would respectfully recommend that this road be placed in positively safe condition at once. Operation should cease until the ties, rail and structures are forthcoming. If, however, your Honorable Body allows this company to continue its operation, the speed of trains should not exceed eight miles per hour and the work of reconstruction should begin immediately, with weekly report to your Honorable Body of progress made.

The above report of the Inspector was considered by the Board and, on May 21, a copy of the report was forwarded the company in connection with which the recommendations of the Inspector were made the recommendations of the Board, and the company was directed, until repairs were made in accordance with the recommendations, to limit the speed of trains upon the road to eight miles an hour. The reply of the railroad company was received on May 23, asking for a hearing before the Board on the matter, and assuring it that pending further consideration trains would be operated as suggested. A hearing was had at the Chamber of Commerce, New York city, on May 27, when the condition of the road was admitted to be practically as the Inspector reported. Assurances were then given that the necessary repairs would immediately be made, coupled with a request for a further inspection within one or two weeks. Such inspection was made on June 2, the result of which is hereto appended:

To the Honorable the State Board of Railroad Commissioners:

Your Inspector has made a second inspection of the Port Jervis, Monticello and New York Railroad, from Port Jervis to Monticello, in company with the secretary and superintendent, and would report as follows: Great improvement has been made since the last inspection. Large quantities of cross-ties have been placed, and more are being placed. The rail joints are receiving a full number of bolts, and the spiking is ample. A drill and rail bender have been purchased and the work of drilling the old iron rail for necessary bolts is well in hand. Your Inspector saw

evidences of betterment along this entire branch. Nothing of moment has been accomplished upon the Summitville Branch and the speed will, the superintendent informed your Inspector, be kept at a minimum until needed repairs are made. Some 30 highway grade warning signs are in course of construction, and will be erected in a few days. Enough good rail is at hand to replace all short pieces. The structures, bridges, trestles, cattle-passes and the like should all receive a very close inspection by the bridgemen, and boring should be made upon all timber members. A new truss bridge of iron will replace the old one across the creek in a very short time. No delay should be allowed in this, for chances with an old bridge should not be taken. Nut locks are used; large gangs of men were at work upon the day of inspection. Your Inspector would suggest that the company be now allowed to run upon its accustomed schedule to Monticello.

Respectfully,

F. K. BAXTER,

Inspector.

Dated, UTICA, *June 4, 1896.*

Upon receipt of the above report the previous order was modified to the extent of permitting the company to run its trains on former schedule time between Port Jervis and Monticello, limiting the speed to eight miles an hour upon the Summitville Branch, entirely devoted to freight trains, until the necessary repairs were completed.

POUGHKEEPSIE AND EASTERN RAILROAD.

(Inspected April 15, 1896.)

This property has been considerably bettered since the last inspection, but much more should be accomplished to place it in average condition. The suggestions made in the last report have been attended to fairly. All of the stub switches should be removed. The highway warning signs are in very poor condition. Such of them as are up are not lawful, and can not be read a few feet away. Highway signs should be conspicuous else they fail to warn the public. The entire road is now laid with 65-pound steel rail, and the sleepers were found, with few exceptions, strong in life and fairly spaced, of good section and many of yellow pine. Some ballast has been placed in places, but much more is badly needed. The passenger station at Poughkeepsie has been enlarged and remodeled and now presents a fair appearance. Last year at Upton Lake, about 14 miles from Poughkeepsie, a new summer and pleasure resort was constructed, with switch, cov-

ered platforms and picnic buildings. Four acres of land were purchased, and the improvement cost about \$15,000. All the passenger stations were painted last year. One second-hand engine and two new ones were also added, together with two coaches. A new pumping station was noted at Stanfordville; also a new car and engine-house at Boston Corners. The road is now entirely fenced in. The siding at Ancram lead mine was extended last year. New closets were noted at Poughkeepsie. The rail joints in the yards should be kept full in the items of bolts and spike. The curves upon this road should be attended to at once; they are in poor adjustment; not proper in elevation, each having "humps" and "flats," and no easement. Every tree large enough to do harm by falling upon the track should be removed. More attention should be paid to maintaining cattle-guards. Proper tie spacing, so as to have the rail joints strongly supported, has not been given the attention it should. The bridges and trestles upon this road should be looked after at once. Not enough care is taken in making the floors safe, in keeping the masonry strong and secure, or protecting the trestles from fire. Guard-rails were not noted, and the guard-timbers, many of them, are either too much decayed or are not large enough in section or properly bolted. Where washouts have occurred this spring temporary pile trestles have been erected, and poorly, too, for the only idea seems to have been to get the trains across. A derailed truck upon many of the structures would no doubt cause great damage. More spike should be used at joints. Why this company does not fill its trestles is hard to understand, as the material is close at hand. Too many chances are taken in keeping or attempting to keep old, patched up trestles in safe condition. Switch targets should be kept bright in paint. Five small openings were noted with parts of structure renewed since the last inspection.

ROME, WATERTOWN AND OGDENSBURG RAILROAD.

(*N. Y. C. & H. R. R. Co., Lessee.*)

Utica to Clayton.

This line has been greatly improved since the last inspection in 1894. Among the betterments were noted the following: About five miles of 65-pound steel rail instead of 56; forty miles of gravel ballast averaging from eight to ten inches deep; sixteen openings piped and closed up by filling over pipes; steel rail about five and one-half miles instead of iron in sidings; 100 miles of woven wire fencing upon the whole system; about fifteen miles upon this line; considerable attention paid to water plants; a large number of iron and steel bridges painted; 4,000 tons of 70-pound steel rail

upon the whole system this year and 2,000 tons last year; new stations at Port Leyden and Holland Patent, and many of the stations painted; between Philadelphia and Carthage some fourteen miles of ballast has been placed about four inches deep; one spur track one and three-quarters miles long was noted leading to a paper mill; spur lengthened at Lyons about 1,000 feet; Clayton station and yard has been greatly remodeled and bettered. The sleeper or tie life was found very good upon this line. Cedar ties are being removed and yellow pine largely used. Some poor ties were noted, but not many. The standard section upon this road shows ties six by nine and ten inches and eight and one-half feet long. Your Inspector was pleased to see the cedars being removed. They are too soft for heavy loads, and the rail cuts into them badly. The ballast placed in the last two years has greatly assisted in saving rail and ties. This company makes no mistake in placing plenty of ballast. Considerable grading has been accomplished and the roadbed has been widened in many places. Many sags have been raised and cuts widened. Summits, to some extent, have also been cut down, thereby lessening the grades. Another year will, no doubt, see much more accomplished in this direction. The line and surface of track was noted in very good condition. Where new rail is laid great care should be given to spacing joint ties properly. The practice of leaving the ties, with the intention of spacing them some time, should not be allowed, for if they are not spaced within a few days after placing the rail, the work is liable to be put off and the joints improperly supported. The ends of rails improperly supported are quickly "surface bent." The spiking and bolts upon this line, as a close rule, were found well in, and where not in the roadmaster promised your Inspector to attend to it at once. The joints next the head of frogs should be given especial care; also upon bridge floors. The 70-pound rail upon this line wears well. More attention should be given the fences, although great improvement has been made in this item. The property, as a whole, should be carefully fenced at all times. The grass and weeds have been cut and removed very well this year, notwithstanding a heavy growth over previous years. The switches were noted, and, as a rule, the parts were found to be in good bearing and working order. More care should be given to keeping the switches locked when not in use. Not a few were noted unlocked. Upon many of the roads of this State each section foreman reports at once every lock unfastened, under penalty of dismissal. Point switches prevail upon this line. Targets should be always bright in color. The ditches were found well cleaned out and graded. Many of the highway warning signs were noted legal in form, but greatly in need of paint and repair. The diamond-shaped standard sign upon this road was found in good con-

dition as regards paint. (See sec. 33, Railroad Laws.) The crossing plank should be kept in good life; some were noted needing renewal. The stone culverts upon this line have been largely overhauled, pointed and repaired. This company acted upon the suggestion made in the last report, and added greatly to the mason force, and much of the masonry has been overhauled and relaid where suitable. This company has adopted the "National" cattle guard as a standard, and another year will see the entire system furnished with this important item. Upon day of inspection many instances were noted needing guards to turn stock. Cattle guards should be placed at right angles to the railroad, and not "skewing," as is generally done where highways cross at other than right angles. The passenger stations were found neat and clean as a rule. Drinking water should always be kept within easy reach. Repairs and remodeling is contemplated in a number of instances. Shims were not noted to any extent upon this line, in use. The curves were noted braced very well with steel and iron braces. Transition has been placed upon the curves where new rail is laid or ballast placed. The riding is greatly bettered, and line and surface easier to keep, while the friction upon the outer rail is greatly lessened. This practice of easement upon curves is to be greatly commended. The right of way has been cleaned up and old stumps and debris removed since the last inspection. Spare rail was noted upon supports at mile posts generally. The clearance marks should not be neglected. Great care should be taken to keep this important item up and in place. Your Inspector noted many safety switches in use, upon downward grades, from siding to main track. A careful survey by the officials should be made and every such place should be protected. Every lock should be fastened when not in use. The trees and telegraph poles standing close enough to fall upon the track by the effects of lightning or high winds should be removed. Foot guards should be placed at every switch. Water for protection against fire at bridges, trestles and shingled station buildings should be constantly kept on hand. Guard rails should be placed upon all floors or decks down to small waterways. The roadmaster and engineer informed your Inspector that this would be done immediately. Spans of 50 feet and upwards, the officials say, is the standard spans for this kind of protection, but your Inspector suggests that all floors down to a 10-foot span should have guards. The whistle, ring and mile posts were noted in bright colors, and nicely paved around them and whitewashed. Facing switches should be removed where possible. There are now no wooden bridges upon this line. The wooden stringer openings were found in safe condition. A number of decks are to be renewed yet this season. Considerable improvement has been made in water supply

at many points. New steel turn-tables were noted at Watertown and Norwood. The wooden stringers upon this line are about seven years old, yellow pine and good section. The iron and steel structures in the roadbed were found in good form and well coated with paint.

Theresa Junction to Ogdensburg.

Considerable improvement has been made upon this line since 1894. Twenty-five miles of ballast, six inches deep, has been placed, and the surface greatly benefited. Redwood station has been recently remodeled and modern conveniences were noted. The highway overhead bridges which were, in many instances, meagre in head room, have, at considerable expense, been elevated to 21 feet above the top of rail. Along this line was noted a new telegraph line 40 miles long, and with the poles away from the track. The poles are sound and large. Near Ogdensburg your Inspector noted a new breakwater, and a number of openings closed up. This improvement is certainly to be commended. The renewal of cross ties upon this line has been good, and very few ties too much decayed were noted. Most of the rail is light in weight, about 56 pounds per lineal yard. It stands well, and has a good general appearance. All short pieces should be removed. The roadmaster assured your Inspector that this would be done at once. One wooden Howe truss through bridge was noted in fair life. It is 40-foot span, and was erected in 1890. The fences should be kept up near highways where the wagon road is parallel or nearly so with the railroad, and particularly where the grade of the railroad is not much above the highway. Stock wandering, grazing or being driven upon the highway at such points can easily get upon the track. The entire road should be fenced in, and your Inspector noted many places where the fences were either in bad repair or down, and where no attempt has been made to fence. The property should be fenced, even though the adjoining land is not used for grazing. Your Inspector was assured that the stub switches would be removed very soon. There are five trains each way daily upon this line. Trees standing too close to the track should be removed. Guard rails should be placed upon the openings in the roadbed. Foot guards should also be placed at switches. Train order signals were noted at all stations. Crossing plank, while generally good, should be given more attention. The bolts at rail joints were noted in very well, and the spiking was found ample. The highway standard signs were noted in good, bright colors, conspicuous in location, and firmly set in the ground. The signs (old) that cross the highway and need repair and paint should be attended to at once. (See sec. 33, Railroad Laws.) All of the small openings were noted in safe condition

upon day of inspection with very few exceptions. Too many of them from four to ten foot span were noted along the road. This company intend closing up the minor openings by solid floors and inserting cast-iron pipe. The standard floor plans show ties 12-inch centers, which gives space of four inches between. Yellow pine is used, and elevation is made where possible in the ties. The passenger stations were neat and clean as a rule, and in good repair. The iron and steel bridging was in good form and upheld by very good masonry as a rule. An extra effort is being made to better the substructures upon the whole system. The cedar ties are being replaced with yellow pine.

Ogdensburg to DeKalb Junction.

This 19 miles of single-track road has been ballasted since the last inspection and the surface and line greatly bettered. The cedar cross-ties are being replaced with yellow pine. The items upon this line were all noted much improved since the last inspection. One pipe line near DeKalb Junction has been placed. A steel girder bridge was noted on the ground to replace a trestle. The oldest wooden stringers are said to be eight years in us. They are safe as yet and the sectional area is in their favor, however. Clearance boards should be kept in place. Foot guards should be placed; also guard rail on bridge floors; guard rails opposite frogs should be bolted to gauge rail, as standard plans show. Trees and telegraph poles should not be allowed too close to the track. The through Howe truss noted in last report is still in use and growing old. A steel structure in its stead is suggested. The mile posts, whistle and ring signs were noted up and in good state of maintenance. The passenger stations were found neat and clean. The 60-pound steel rail appears to wear well. Your Inspector was pleased to note that the old masonry is being given attention, as suggested in last report. Main line switches should be kept locked when not in use. The safety switches should also be kept locked. The cattle guards should be given more attention. There are only 14 wooden truss bridges upon the whole system, and five of these will be replaced by deck plate girder bridges this year.

Massena Springs to Gouverneur—Main Line.

Some 25 stub switches have been replaced by split points since the last inspection. New water tank, and pump-house engine-house and turntable were noted at Norwood. Twenty miles of ballast has been placed since 1894. Seven miles of 70-pound steel rail was noted upon roadbed distributed and to be laid yet this year. Clearance marks should be kept in place. Spare rails here, as upon the

other lines, were noted up frequently and well cared for. This line has been greatly improved; since the last inspection, ditching has been given attention, and the surface and line gave evidence of this upon day of inspection. The cross-ties were noted much improved, and the joint fastenings were found well bolted and spiking ample, with very little exception. The joint ties should be given more attention. Some of the minor openings have been covered and raised; also shoulders widened. Not enough attention to crossing plank is given; this is an important item. The carpenter force upon this system is permitting the wooden structures to fall below the proper safety limit. Cattle guards need attention. Ties should be properly spaced. The curves have been spiraled on all lines where an instrument has been used to reline. The iron and steel structures were all noted in good form and many painted. Considerable has been accomplished in the pointing and relaying of old masonry. Grass and weeds have received attention this year, and much work has been accomplished in burning stumps and clearing the right of way. Attention should be given the highway warning signs. The passenger stations were noted in very fair, neat and clean condition; very few shims were noted, and your Inspector was informed that an extra effort would be made to remove them as soon as the frost leaves the ground each year.. Foot guards are not in use. Guard-rail should be placed upon all floors down to a 10-foot opening. Targets and signs in some few instances should be bettered, though generally they were noted very well cared for. Facing switches are being removed where possible. Switches should be kept locked when not in use. Your Inspector noted closer attention on the whole, in the various items, than during the 1894 inspection.

Gouverneur to Edwards.

Very little has been done upon this line since 1894. The stations have been painted and a number of short sags raised and shoulders widened to some extent. New whistle posts were noted. The trees too close to the track should be removed. Foot guards should be placed; also guard-rails on floors. More attention is necessary in the item of rail bolts, and keeping the spike well in place; shims and wooden braces were noted. Switches should be locked when not in use, and every switch should have a lock. The highway grade crossing signs are all of the diamond shape with nine inch letters, but they do not stand over the highway. (See § 33, R. R. Laws.) The surface and line of track considering the traffic was noted good. The wooden stringer openings are as previously reported. The metal structures were found in good form and resting upon masonry in some instances needing attention. Clearance marks should be kept in place.

Gouverneur to Watertown—Main Line.

This line is now laid entire with 70-pound steel rail and many other improvements were noted among them; 13 openings have been filled since last inspection and some ballast has been placed. This line should be full ballasted another year. No. 74 is a through Howe bridge erected in 1888. A new steel bridge will replace it this year and masonry made entirely new, sag will also be raised; considerable shouldering out at places was noted. At Sanford's crossing a summit has been lowered and the line modified. One thousand cubic yards of good broken stone have been placed upon a street in Watertown through which the track passes. Much improvement was noted in the item of cross-ties. The ballast material should be added to; considerable grading was noted. The surface and line of track was found very good and curves all having spiral easement; spiking and bolting were noted good and much improved since the last inspection. The rail wears well and gives good satisfaction. More attention should be given the fences. Grass and weeds were noted well in hand. The switches are all of the split-point pattern. Foot guards should be forthcoming and guard-rails at frogs should be bolted. Locks should be kept fastened when not in use. The ditches have received more attention than in former years. The warning signs are made up of the company's standard referred to above, and the legal form standing over the highways; the latter need attention, paint is almost obliterated. The crossing planks were noted in fair condition as a rule, though too many instances were noted needing renewal. The cattle guards should receive more attention. Passenger stations have been painted and repaired largely; shims were not noted in any numbers; steel braces are in use. The right of way was found in good, neat and orderly condition. Spare rails were found up in ample numbers; clearance marks should not be neglected, too many were noted missing. Blind switches were noted upon sidings having downward grade to main track; they should be kept locked. All trees and telegraph poles should be removed from close proximity to the track. Drinking water should be kept at every station within easy reach. Bridges and viaducts should be furnished with water for fire protection; also upon trestles and minor openings. Facing switches should be eliminated where possible. Much improvement was noted in the item of masonry and in elevating overhead bridges.

Cape Vincent Branch.

The principal improvements upon this branch since the last inspection consist of masonry repairs and covered openings (rail flooring). A new station building at Cape Vincent; new engine-house, 16 stalls and all modern improvements at Watertown Junction.

The masonry repairs have been extensive. A wooden bridge is soon to be replaced with new steel structure, six pipe lines placed under roadbed, and as many small openings filled. Some two miles of ballast has been placed in odd places. The wooden stringer openings were found in safe timber condition upon day of inspection. Renewal of stringers should not be delayed, however, in a few instances. The stub switches should be replaced with "split points." About 12 have been removed since 1894. Telegraph poles and trees were noted too close to the track for safety. The highway signs should all be legal (§ 33, R. R. Laws). A new water tank was noted at Limerick. Three passenger trains and one freight each way daily attends to the business. Cattle guards should be placed. Many fences were noted down; the property should be fenced. Four and six inch tile pipe should be used in wet cuts to drain roadbed. The bridging upon this line was found in good form and condition. The passenger stations have been painted to some extent and ordinary repairs made. This line is gradually being brought up to the standard of the other lines.

Watertown to Sackett's Harbor.

This line has not been much improved since the last inspection, though the improvements made are noteworthy. Cinders have been placed to some extent. One standard cattle pass has been covered with rail, and the Sackett's Harbor station remodeled. The trees should be removed where standing close enough to the track to fall upon it. This line should receive ballast. The surface and line while bettered since the last inspection by opening ditches and renewing cross-ties is still anything but good. Bolts should be kept in; weeds should be kept out of roadbed. Telegraph poles were noted too close to track. All of the switches should be furnished with locks and they should be kept locked when not in use. The fences should be kept up. The cross tie renewals this year have been very good. The old 56-pound steel rail is now 13 years old, and while watched carefully and given proper attention good line and surface can not be expected.

Watertown to Carthage.

All of this line is composed of 56-pound steel rail except about one mile. Some ballast has been placed since the last inspection and considerable "shouldering out" has been accomplished, and this betterment is noteworthy. Spare rail at frequent intervals were noted and well maintained upon a rack in each instance. The wooden structures all appear in good form. The surface and line for the age of the rail is very good. Eleven trains run upon this:

line daily. Floors with few exceptions were found good. The only large bridge is a through plate girder, and noted in good form and condition. The other openings are all cattle passes and small openings. A few need repairs. This line was built in 1872. A great deal of improvement was noted in the items including spike, bolts, braces, spacing and the like. New rail should be placed upon this line another year without fail. It was promised in 1895. The targets, switches, stands, posts, grading, ditches, ties and the like were noted in very much improved condition

Carthage and Benson Mine Branch.

Twelve openings with wooden stringers have been replaced with I beams, since the last inspection. An iron bridge has been replaced with steel deck plate girders. The 60-pound steel rail wears well and the surface and line has been very much improved since 1894. This line was begun in 1884. It has been extended about three and one-half miles to Newton Falls, since the last inspection. There are no openings of note, and was laid with 65-pound steel. A number of places have been fixed with ballast and filling material, and considerable permanent work has been accomplished. Your Inspector was shown quite a few of the small openings that are to be piped this year. The road department has accomplished many improvements since 1894, as suggested by your Honorable Body. Six trains daily in summer and four in the winter attend to the business. The Bear Lake trestle has been filled and a pipe placed; also the Little River trestle and arch culvert placed. There is only one trestle now, and it is about three-fourths filled. Trees should be removed that stand too close to the track. New floors have been placed upon some 60 openings, very recently. Alignment and grade was noted good. A mason gang has worked upon this line recently, and much of the old masonry is now relaid and pointed. Foot guards should be placed; clearance marks should be maintained at every needed point. Bolts have been given considerable attention but more was noted needed at places, particularly at and near frogs. The crossing plank were in much better condition than at the last inspection. The right of way was noted quite clean and bettered. Because of liability of damage from fire, great care should be taken to keep old stumps and dead trees far enough away from the track. All of the recent masonry erected upon this line is excellent, and a desire was everywhere noted to improve. Guard timbers or tie spaces should be kept well bolted and should consist of large timbers. The cross ties were found in very strong life with few exceptions, quite large in section and laid close together.

Watertown to Richland.

This line about 31 miles is considered the best road in the system. A new siding 2,100 feet long has been recently laid. There are about 10 wooden stringer openings and all are considered by the officials good, and your Inspector found them well cared for. Some three miles of ballast has been placed since 1894. Adams Center siding is to be extended about 1,500 feet. The rail remains the same as reported in 1894. The National cattle guard is to be placed upon this line soon. The fences were found well up, and spare rail in good position. Clearance marks should be given more attention. Safety switches are in use at all places having downward grade to main track. Adams station was burned, and is to be rebuilt. The large bridges have been overhauled, masonry renewed and repaired, and permanent work done in each instance. The telegraph poles were noted too close to the track. The ditches need cleaning, and this is to be done this month (October). Trees were noted too close to the track. Spare rails were noted up frequently and well supported. Crossing plank need attention. With few exceptions this line was found good in all items.

Pulaski to Oswego.

The steel upon this line is 60-pound, and 11 years old. It wears well and was noted upon day of inspection in fair surface and line. The cross-ties were found in very good life, generally of large section and quite close together. Ballast material was placed to some extent last year. Trees should be removed where close to track. Highway signs should be kept up in good paint and firm, and legal in form. Spare rail were noted up good. Some grading has been accomplished. Wall plates have been placed at all openings, and the floors were noted strong and in good form generally. One trestle 300 feet long was rebuilt last year, and should have water in barrels as a protection against fire. A watchman is employed here during the summer. The masonry upon this line is generally in good condition and considerable new work is to be accomplished next year. The ring and whistle posts were noted up in good paint and condition. Cattle guards should be kept up. Two old wooden Howe trusses have been replaced since the last inspection with deck plate girders, and it is this class of betterments that will in the near future make this company's roads average well with the other roads of the State. Some 10 safety switches have been placed since 1894. The ditches upon this line have been cleaned out recently and considerable work in widening on shoulders have been done in a number of places. Mile posts, spare rail, whistle posts and the like are whitewashed and paved around. Mexico station has been remodeled and the yard straight-

ened, which greatly improves the situation at this point. Clearance marks should be kept up. This line has been greatly improved since the last inspection. More ballast should be placed another year to raise the track at least five inches.

Oswego to Suspension Bridge.

This line has also been greatly improved since the inspection in 1894. No ballast of moment has been placed, though another year large quantities will be given this line. Fifteen openings have been piped and closed since 1894. The cross ties are very good and the yearly renewal, about 350 per mile, keeps this line in strong condition. The cedar ties are nearly all out. Considerable repairs to bridge masonry and structural painting has been done since 1894. The floor systems generally upon this line were noted very strong and with closely spaced ties. Water should be kept constantly upon trestles. Guard rails should also be upon structures. Cattle guards should receive more attention. There are no stub switches upon this line. The ditches were noted well opened. Some legal highway signs were noted, though, needing paint badly. Foot guards should be maintained. The fences were noted up. The oldest wooden structures in roadbed are about eight years. The stringers are all yellow pine. Bolts should be carefully watched near frogs. The ties in some stretches were noted not spaced or spiked as they should be. Every highway grade crossing should be protected with sign of warning. Spare rail should be kept up in place. Trees should not be allowed too close to the track. The crossing plank should be given more attention. The posts and signs upon the day of inspection were being painted and paved around. Some attention should be given widening on shoulders. Spacing timbers on floors should be placed without delay. The traffic upon this line is not great, but high speed is made between stations. The spiking and bolting was noted very good. At Windsor Beach the old line has been abandoned, and the main line greatly improved at this point. The double track has been extended about half a mile. The improvement in tie life has been great in the last two years. The sections with square joints should be rearranged. Two openings have been covered with rail floors, and a new stone box culvert was noted. Many back walls have been erected, and all those remaining will be rebuilt of stone another year. When this road was built back walls were not deemed important. The practice of allowing stock to graze upon the right of way should be discontinued, not only upon this line, but upon every other line in the State, unless watched constantly while grazing. Guard rail inside the gauge rail should be placed upon the bridge floors down to 10-foot span.

Some 33 miles of telegraph line have been erected since 1894. About eight miles of sand ballast has been placed on 82 miles of road. The short rail (small pieces) should be removed at once. This was promised by the officials. The Charlotte draw-bridge has received considerable attention. A new floor is ordered and repairs and renewals have been made to various parts, and it is now, with exception of floor, in extra condition. The passenger stations were noted clean and neat inside and ordinary repairs well in hand.

Rochester Branch.

This line, seven and a quarter miles long, has been improved in a number of items since the last inspection. It needs ballast very much. The cross ties were found in strong life, and while the 60-pound steel rail was noted somewhat surface bent and worn, is still in fair condition. Trees should be removed. The minor items generally were found well maintained. A change of line has been made at Seneca Park, and much improvement was noted. The minor openings were in strong life with few exceptions. The structure over the Genesee river has been painted, a new floor placed and the trestle at end filled. The traffic upon this short line is not heavy, and the road is in very fair condition.

Fulton to Woodard Junction.

This line is laid with 56-pound steel, all but six miles, which is laid with old-style 70-pound. The cross ties were noted in very good condition as a rule. Three pipe lines have been placed recently and as many openings filled. The masonry is all good, having been rebuilt five years ago. About seven miles of cinder ballast has been placed at various points since 1894. This line has been much improved the last two years. There are only twelve wooden stringer openings upon the 17 miles. The bridge over Oneida river needs paint. The minor openings have been well attended to. The ties should be better spaced and more spike used on the old 70-pound rail. The ditches, shoulders, fences, right of way, spiking, bolts, weeds and grass have all received attention. The iron and steel structures were found in good form and condition. The passenger stations have received attention in matter of ordinary repairs.

Syracuse to Richland.

This line, 42 miles, is now, or will be before winter, laid entire with new 70-pound steel. The Liverpool station is new. The oldest stringers upon the line are said to have been in use nine years. At Woodard Junction a needed improvement was in progress. The track is being lowered and line changed so as to

place the main track next the station. This is being done at a number of places, and the company should certainly be commended for its zeal in not only bettering its lines from a traffic point of view, but also in increasing the factor of safety for the traveling public. The ties, when the new rail is laid, should be immediately spaced. Some six miles of gravel ballast, about four inches deep, has been placed since 1894. The improvements upon this line are many. Trees should be removed from close proximity to track. The stub switches yet in will be replaced with the safety pattern when the new rail is laid. The wooden Howe truss bridges are fast being replaced with steel structures. Some cross ties at intervals were noted too much decayed. Telegraph poles should not be allowed too close. The cross fences, whistle and ring posts, mile posts, and, in fact, all the signs, with the exception of highway warning signs, were noted good. More attention is urgently suggested in the item of warning signs at highways. The line, surface, spikes, bolts, frogs, switches and the like were all well cared for. Foot guards should be placed and maintained. Guard rail should be bolted as well as braced opposite frogs upon this whole system.

Richland to Rome.

This line now has only one wooden bridge, 50-foot span, built in 1890, and will be replaced with steel next year. Three passenger trains each way daily and two freights, besides extras, attend to the business. Another year, the officials said, many of the small openings will be closed by pipe lines and covered floors. The posts and signs were noted well painted, except the highway signs. Great care has been taken by this company to clear up its property from unsightly objects like old stumps, bowlders, dead trees and the like. The line is nicely graded, and, with proper ballast material, it would average very well. The stub switches should be removed. The rail is light, being 60-pound and twelve years old, and considerably surface bent. The wooden stringers should receive attention. A few are reaching a point where the possibility of sudden failure is great. Seven pipe lines have been placed and as many openings closed. The officials promised your Inspector that the old masonry would be all overhauled next year. Too many joint ties were noted decayed. Your Inspector would urgently suggest where highways cross the railroad at acute angles fences should surely be maintained, particularly where the railroad grade and the highway grade are nearly or quite equal. It is at these points that wandering stock frequently are the cause of derailments. There are a number of crossings upon this line like the above. The minor items were noted well cared for as a rule, though attention is called in a few instances to de-

cayed and split shims, missing bolts and spike. The telegraph poles through Rome swamp are too close to the track. A new water tank has been erected at Taberg; also pump house. With sufficient ballast this line would average well. The passenger stations were found, with few exceptions, well cared for, neat and clean.

Note.—The improvements upon this system since the New York Central and Hudson River Railroad Company took possession have certainly been very great.

ST. LAWRENCE AND ADIRONDACK RAILROAD.

(Inspected November 20, 1896.)

This line is single track, 56 miles long and extends from Malone, this State, to within eight miles of Montreal; nine and one-half miles is in this State from Malone to the International Boundary. It is laid with 75-pound steel rail. The cross ties were noted strong in life and the ballast material good, though too fine for best results. This line is virtually being rebuilt, and it is no doubt the intention of the owners to make it first class. Generally speaking everything is of the best material including fences, rail, ties, culverts, stations and the like. Your Inspector would suggest that the wooden cattle passes, instead of having wooden plank for the track and ballast to rest on should be composed of steel and masonry abutments. This your Inspector was assured would be done immediately. The snow fences were noted up in good order; for durability and economy the boards should be nailed on the windward side of the posts, wooden box culverts under heavy embankments should not be allowed; the timber decays, and then settlement occurs, and the fine sandy material runs away and the embankment caves in, perhaps in the face of an approaching train. Trees standing close to the track should be removed. If standing upon abutting land they should be purchased and cut away. The highway signs should be of legal form (see art. 11, § 33, R. R. Laws). All of the track items including spikes, bolts, angle bars and switches, were noted of good material and well in place. The switch lights should be higher, so as to be always in plain view. Telegraph poles should be numbered to locate points along the line closely. The stations were found neat, and of good design. The Malone station your Inspector is informed, is to be enlarged and remodeled. True economy would be greatly subserved by placing good ballast material; broken stone or walnut sized gravel. The rails are not at present much surface bent, but will be shortly unless good ballast is forthcoming. The bridges appear in strong condition, and of good design. The steel viaduct is well painted and ample in metal. The stone piers are well laid and great care is evidently taken to make permanent work. Foot guards should be placed; guard-rail

between the gauge-rail should be placed upon all bridges; derailing switches should be placed at all sidings having downward grade to the main track; water for fire protection should be constantly kept at all stations. Drinking water should be kept within easy reach at all passenger stations.

SARANAC AND LAKE PLACID RAILROAD.

(Inspected August 14, 1895.)

This road extends from its connection with the Chateaugay and Mohawk and Malone Railroads at Saranac village to Lake Placid, 10 miles. It is laid with three rails to accommodate narrow and standard gauge. The company's equipment consists of two engines weighing 35 and 45 tons, one passenger coach and one combination car. The maximum grade is 105 feet per mile; 12 degree curves were noted. The road began its operations July 16, 1892. Construction began February, 1892. The traffic is largely of passenger and freight transfers to summer hotels at Lake Placid. The construction of this road is modern; 65-pound steel rail, split-point switches and ties of good section and laid quite close. The ballast material is largely sand, though some gravel was noted; six men try to keep this 10 miles of road up. It is claimed good ballast will be placed this fall. There are 15 grade crossings; the crossing signs were found conspicuous. Cast-iron pipe has been utilized to some extent and more is to be placed to close up small openings. The track (standard) is laid with angle bars of good section and well bolted. The rail is well spiked. The narrow gauge is not well bolted, and should be without delay. Considerable work is still to be accomplished to bring the physical condition up to the standard. There are some 15 structures, of which 4 are trestles; one of these trestles was noted upon a reverse curve. They should be filled as far and as fast as possible; in any event before next season. The single openings should be spanned with I beams where waterway is necessary and cast-iron pipe can be used. The factor of safety should be large owing to probable increase in moving loads in the near future. The line is through an unbroken forest, and danger from fire is consequently great. No delay should be allowed in full bolting the third rail. Generally speaking the road was found well in hand with the above exceptions.

SENECA FALLS AND CAYUGA LAKE RAILROAD.

(Inspected August 8, 1895.)

This road extended from the Franklin House, Seneca Falls about three miles to a picnic grove or grounds near the shore of Cayuga Lake. It is now abandoned. Early last spring it was purchased by

the Geneva, Waterloo, Seneca Falls and Cayuga Lake Traction Co. This company is constructing 14 miles of trolley line and about one mile of the steam roadbed is utilized near the lake. The steam road was operated for a short time last year. The rails have all been removed and some of them utilized on the new electric line, which is expected will be opened in the coming fall.

STERLING MOUNTAIN RAILROAD.

(Inspected June 3, 1896.)

This property has been considerably improved, and upon the day of inspection a creek bridge was being rebuilt. The rail remains in good condition and the ties were found well renewed. Some poor ones were noted, but not in excess to warrant danger. Bolts were found at rail joints well in, and a general desire upon the part of the officials was noted looking toward care and safety. Only about 60 passengers per month are carried upon this eight-mile road. The company has purchased one new engine and a new caboose. All of the old short ore cars have been disposed of. Targets should be kept painted. All trees close to the track should be removed. Guard rails should be placed upon floors of structures. Derailing switches should be placed upon all sidings having downward grade to the main track. Highway warning signs should have letters nine inches high, and be placed in conspicuous positions. Fences should be kept up. The curves were very well adjusted, as a rule, but places were noted needing attention. Angles should not occur on a curve. The stub switches should be removed. Seventeen hundred ties (local timber) were placed last year, and 2,000 will soon be in this season. All of the structures in the roadbed should be carefully bored and stringers not positively sound removed. Bents should not be allowed in the channel of the mountain streams. Stone masonry and iron, or better still, steel built beams, should be erected so that full waterway in time of floods and storms be allowed. Shoulders should be filled out on the outside of curves where needed. Ballast is needed and ditches need cleaning.

SCHOHARIE VALLEY RAILROAD.

(Inspected July 29, 1896.)

Considerable improvement has been made since the last inspection in 1893, but much more should be accomplished this season. The company now has in use the combination car suggested in last report, and public convenience is greatly served. Drinking water should without fail be placed and maintained in the passenger stations. New platforms should be placed at the stations. This

was promised your Inspector. The Fair Street station platform should be lowered; it is too high and dangerous. This station is on the Middleburg and Schoharie road which is operated in connection with and forms a continuation of the Schoharie Valley road. The two roads are maintained as separate organizations, but otherwise are closely related. Fifteen hundred ties will be placed this season. Many over decayed sleepers were noted. The grass and weeds on the track are so thick that it was next to impossible to properly inspect the ties. Enough was seen, however, to show the great need of large renewals. There is no ballast and the natural soil is of a clay nature, making it very difficult to keep the rail in place. Fifteen tons of 60-pound steel rail is to be placed yearly. This amount will lay about 900 feet. The road is about four and one-half miles long, and, as can be seen, the above amount is very small. The iron rail still remains at both ends and is in a very bad condition. The joints are scarcely connected; bolts missing and loose; spike loose and insufficient. Taken altogether it is a wonder the engine and cars stay on the track; very low speed prevails of course, but with all the care taken it is very dangerous. Two engines recently purchased are used by both roads. One new from the Schenectady works and the other a second, though in good condition. There should be a bell placed upon the new engine. This was promised. The stub switches should be removed and those of modern form and kind used. Little if any attention is paid to ditching. Proper care in this item would help the condition of the track greatly. The grass, weeds and brush upon right of way is fairly cared for. The road needs ballast and ties very much, and it is suggested that the old iron rail be removed at once. The through wooden Howe truss bridge over Fox's Creek should be thoroughly examined by boring at once. It is 100 feet long, sided and roofed, but the rain and snow finds the timbers through this leaky covering. It is suggested that a competent bridge man be employed to closely examine it, as above, and place bents under it for positive safety. The small openings have deck iron girders resting on poor, small, dry stone walls, some of the walls lean and should be relaid, and with proper sized stone. Guard timbers should also be placed and floor ties properly spaced. As suggested in the last report, this road should be at least made equal to the average if it is to be operated in the future.

SEA VIEW RAILROAD.

(Inspected April 6, 1896.)

This double tracked elevated road, one mile long, from Brighton Hotel to Brighton, remains in the same general condition as when

last inspected. The work of repairs to the square work has developed the fact that decay is gradually destroying the vertical supports. A large number have been cut into near the ground, and new timber spliced in and bolted. This is perhaps the best manner of repairing, but the trouble is that in the near future new material will have to be placed. Patching up a structure like this is dangerous at best. The superintendent said that excavations had been made at every bent, and all decayed material cut out as described above. The pile work has also been overhauled, and each pile coated with an asphaltic mixture. The structure as a whole is kept in good condition. Intelligent and careful management is displayed, but since the Kings County Elevated connection is assured no time should be lost to renew this wooden trestle with steel. Five hundred or a thousand feet should be built each year. It should not be allowed to remain until the safe limit is narrowed. Thousands of people pass over this trestle weekly during the summer months, and great loss of life without warning will occur if the structure is allowed to go until the supports buckle. The failure of such a structure would be very sudden, and would probably not be caused by any one thing, but by a combination of circumstances, such a high winds, large crowds, defective rail joint, one or more vertical posts over decayed, etc. On the other hand, it might stand when patched up and parts were absolutely unsafe. But these chances should not be taken. Next winter should see work begun on the steel or iron renewal. Longitudinal bracing should be placed without fail this season.

[The Board was assured, after copy of inspection had been sent the company, that the improvements suggested would be made as far as possible this season.]

SILVER LAKE RAILROAD.

(Inspected July 8, 1896.)

This road has been greatly bettered since the last inspection, though much more work is needed upon it to place it on an average with the other summer roads of the State. Two thousand oak ties were placed last year; 1,000 oak ties this year, and 3,000 cedar. The length of this road is six and eighty-six hundredths miles. Five men are supposed to care for the track and structures. The ties yet to be placed should not be delayed. The cinder and ashes placed for ballast was a great improvement, but more should be forthcoming. Little or no grading has been done, and the shoulders need considerable attention. The ditches have

received some attention, but not enough. Line and surface were noted much better than when last inspected, though too many low joints were noticed upon July 8, 1896. Not enough attention is given to proper spiking. Two many bolts were noted gone. The rail joints should be fastened stoutly, and a full complement of bolts and spike should be used. Broken joint bars should be replaced with sound ones at once. The rail is considerably worn and kinked vertically which necessitates closer attention. More attention should be paid to fences. Grass and weeds should be cut and removed, and between the rails any growth of weeds should not be allowed to remain. Switches are not cared for as they should be. As reported previously the switches are not kept locked. Careless, mischevious or vicious persons could do great harm. There is no excuse for not keeping them locked when not in use. Stub switches are dangerous, and great care should be constantly given this very important item. The superintendent is also the station agent at Perry, and can not properly attend to details. Meagre track force precludes proper attention to ditching and draining. Warning signs should receive more attention. Crossing plank should be better cared for. The Silver Lake assembly station is new and of modern design, and leading to it from the lake is a well built subway for passengers. The station at Perry should be rebuilt. It is too small, old, and out of repair, and has a high platform which is dangerous. The right of way should be kept free from debris, and all trees close enough to fall upon the track should be removed at once. There should be clearance marks at every switch, and those having downward grade to the main track should have blind or derailing switches. All angles should be blocked where possible. Something should be done at once to make the openings in the roadbed secure. A derailed truck would cause great damage at almost any one of them. Highway grade warning signs should have letters nine inches high. There are six passenger trains out of Perry and five in and one mixed train daily. There should be a rail-saw, drill and bender at hand. The curves are not in good adjustment and should be relined by instrument, and proper elevation given the outer rail. Switch targets should be painted and kept bright in color.

SKANEATELES RAILROAD.

(Inspected July 17, 1896.)

From Skaneateles Junction with the Auburn branch of the New York Central and Hudson River Railroad to Skaneateles village is about five miles. Your Inspector was unable to see in walking over this road that anything whatever had been done since the last in-

spection in 1894. On the whole line not one man was observed at work upon the track, roadbed or bridges. The road is neglected very much. The suggestions made in the last report have received no attention, and dry decay is plainly noticeable. If this road is allowed to continue in operation considerable work and material must be furnished, including point safety switches instead of the old stubs. New ties in place of those too much decayed, targets painted, highway signs with letters nine inches high, switch locks, the removal of shims, ballast, ditching, bolts kept in around switches, ties properly spaced, and spikes ample to hold the rail positively. Every tie should be spiked instead of every other one. Bridges overhauled and new timbers taking the place of those over decayed. Broken joint splices replaced with new ones. Foot guards placed along the whole line; clearance marks at switches; all trees removed that stand close enough to the track to cause damage. This road follows the highway for quite a distance and public trees perhaps can not be removed, but there are many in places that this company should attend to at once. The speed upon the road is not over 30 miles per hour between stations, but trains run after dark, and much damage could easily be done if more care is not observed. The old stub switches are shimmed up two and three deep and unsafe. The remaining rail left in the track was once a side track and should be removed at once. Crossing plank should be given more attention. Derailing switches should be placed at every siding having downward grade to the main track. The alignment and adjustment is not good or even fair. Grass and weeds should be kept from the track and surface. The structures in the roadbed remain untouched and no care taken with them. The traveling public is entitled to safety upon this road, as upon all others, and structures and track can not be kept in a safe condition without care and attention. There are a number of openings that should have been built of beams of iron or steel instead of wood. There are narrow openings that should be arched and filled in. The small wire used to keep the floor ties apart does not answer, and many ties were found "slewed" badly. Guard-rail should be placed at each of the long trestles without fail, and the floor ties should be kept apart by large, sound timbers notched a little down upon the ties and bolted strongly to them.

STATEN ISLAND RAPID TRANSIT RAILROAD.

(Inspected April 9, 1896.)

This property was found in good condition as a rule and many improvements have been made since the last inspection. Among these may be mentioned: 32 electric highway gongs in operation; yellow pine ties largely in use; have extended double track from

New Dorp to Annandale, and expect to complete it in a few months; four miles of 70-pound steel rail (good second); 1,200 feet of single track extension at Tottenville. At this point a new station and ferry landing is near completion which will greatly facilitate the traffic from Perth Amboy and vicinity. Ten thousand yellow pine cross-ties were placed last year. The Tompkinsville trestle, about 1,000 feet long, has been filled. The new station at St. George is fast nearing completion, and will greatly add to the accommodations at this important point. About four miles of single track 70-pound steel rail has been laid. Twenty-five thousand new cross-ties will be placed this season. About 500 feet of new siding has been laid since the last inspection. The new ties have a section of 7"x9"x8'. This road should receive ballast; none has been placed since the last inspection. Fences are down to a great extent. Your Inspector was informed that the entire road would be fenced this year. The highway warning signs were noted good. The cattle guards need some attention, but were found generally well maintained. The small openings should be piped where possible. All of the switches are now split points out of the main lines and well cared for. Great care should be taken to keep the rail joints well bolted and spiked. This was promised immediately. New platforms were noted and stations newly painted besides the minor repairs. The crossing plank very fair as a rule. The Toredos bothers some, though the officials said not enough to treat the timbers with creosote or vulcanizing process. The light 56-pound rail should be removed and heavier laid. The switch timbers and ties are to be all removed this season. The stations are close together and the speed consequently not great. A new freight station was noted at Prince's Bay. The opening with supports resting on crib work should be overhauled. Your Inspector wishes to call attention to the fact that trees stand in a number of instances too close to the track; high winds or lightning might easily cause derailment by falling limbs or trunks; attention should be paid at once to these dangerous conditions. It is said eight facing switches will be reduced to two this year. Derailing switches were noted and officials say they are in place at all points. The Baltimore and Ohio road controls this road, and is in a receiver's hands at present. Attention should be paid to ditching this season; this important item should not be neglected. The curves have no easement. The freight business has greatly increased the last few years, and the prospects for the future are said to be encouraging. The high platforms are still in existence, but carefully maintained. The vertical supports should be given the strictest attention. The high and long trestle approaching the Arthurkill swing bridge has been overhauled. This trestle should be filled if possible. The 900-foot trestle on the South Beach branch has been overhauled and a number of piles cut down

and bents inserted. All sills should be uncovered where susceptible to wet and dry conditions. The track was being raised upon day of inspection at the beach end. Foot guards should be placed at all angles and places needed. Guard-rails at switches should be better braced. The structures as a rule are in safe condition at present, but trestles should be filled where possible, without delay.

ULSTER AND DELAWARE RAILROAD.

(Inspected June 10, 1896.)

The maintenance of way improvements have been many since the last inspection. At Kingston Point on the Hudson river, about a mile of single track trestle has been erected to the river and boat landing. Facilities of modern design are now in course of construction. This work has delayed to a considerable extent the repairs along the road proper. A very complete design for shops was noted, and the buildings are in course of erection; also quite a large elevator at the Hudson river end. Four passenger stations have been remodeled or rebuilt. This road is to ballasted with broken stone. The crusher plant has been located and large quantities of good stone are to be had. Thirty new iron structures have replaced as many old wooden ones since the last inspection. This company has placed upon the 87 miles of road each year 43,000 ties. The work of retieing this season is progressing. The cross-ties generally were found in very good strength of life, and very few were noticed over decayed. One hundred and fifty men are employed upon this road in the track department. Trees standing close to the track should be removed. The officials promised that this would be done without delay. Whistle, mile and signal posts are to be erected along the entire road this season. The 62-pound rail will be replaced this fall with 90-pound rail. Telegraph poles were noted too close to the track, and should be removed as far away as possible. The company spike every tie upon bridge floors and give great attention to details. Yellow pine ties 6"x9"x8' are now being used. Seven openings in the roadbed are to be closed this season. Semaphores are to be put up at stations. The company also intend to brace all the curves this year. Lights upon all the switch stands have for the first time been placed along the road. Spare raile at every mile post should be placed upon brackets without delay. Guard-rail should be placed upon all the bridges. Considerable work is needed along this road and officials manifest a desire to make everything safe by good construction. Old, loose, small, drystone abutments are to be replaced with good sound quarry stone laid in cement. Shims were noted to some extent but orders were given to remove them immediately. The frost up the mountains gave trouble until May this year. The new bridges placed since the last inspection together with those to

be placed this season will greatly improve the conditions. A few wooden bridges decayed beyond the safe limit were noted, but bents have been placed under them, and they are to be replaced with iron bridges this season. There are five cattle passes ranging from 6 to 18 feet span, three of which are iron. The other two will be replaced by iron very soon. Two overhead highway crossing bridges, now wood stringers, are to be changed to iron without delay. Eighteen waterway openings ranging from 6 to 23 feet span will have iron girders this season. Forty-one bridges were noted mostly of iron and well maintained. The floor systems were found very good as a rule. The iron work is kept well painted. Foot guards at all frogs and angles should be placed without delay. Derailing switches were noted frequently and the officials informed your Inspector that one would be found at every siding having a grade downward to main track. Spike and bolts along the track were noted well in and care is taken to keep them so. The fences are well maintained. Cattle guards are to be placed at every crossing, wooden slats will be placed, specially designed by the general road master. The road is being relined by instrument as suggested by your Honorable Body and the curves will be bettered in adjustment, surface and ease of passage. The company should put spiral easement on its curves as the other roads of the State are doing. Shoulders should be filled out along this line. All of the wet cuts should be drained; 4 and 6 inch tile is used by many of the roads with great success. The passenger stations along this road are well maintained. The station at Phoenicia should be rebuilt.

WALLKILL VALLEY RAILROAD.

This road remains, generally speaking, in about the same condition as when previously inspected with few exceptions. One mile of new steel rail has been laid since 1894. Guard rails should be placed upon bridges and trestles. Some new siding has been added. Twelve thousand cross-ties have been placed this year, mostly yellow pine. In the summer eight trains each way daily care for the traffic. New rail should take the place of the 18 year old rail. Trees should be removed. (See subdivision 3, § 4, R. R. Laws.) Highway signs at grade crossings should be in accordance with the Railroad Law. All very short pieces of rail should be removed. Bolts and spikes should be kept in. The old leaning abutments and parapet walls should be relaid with large, sound stone laid in hydraulic cement. Ballast should be placed upon this road as soon as possible. Cattle guards are being placed along the line. The track force upon this road is good. The old rail and scanty ballast demands constant attention. All old buildings standing near the track and not in use should be removed. High winds are liable to overturn

them upon the track in front of an approaching train. There still remains five stub switches. These should be replaced with some safety pattern. Crossing plank were noted generally good. A mason gang should be placed upon this road at once. The winter schedule consists of four passenger and one freight train. The passenger stations should be given more attention in minor details. The minor openings, aside from the leaning walls, appeared upon day of inspection in fair condition. The new Rosendale bridge erected this year consists of six 50-foot deck plate girders and three 150-foot deck Pratt spans, beside the girders across towers. The total length of this structure is 975 feet and is 140 feet high. This magnificent bridge in all its parts has been carefully adjusted, and the work and structure is particularly commended.

WESTERN NEW YORK AND PENNSYLVANIA RAILROAD.

Main Line.

(Inspected August 31, 1896.)

Considerable betterment was noted upon day of inspection along this line. The sleeper or cross tie life was found generally good. Renewals have been many, and very generally of white oak. Decayed ties were noted to some extent. Danger from decayed sleepers, particularly at rail joints is very great. Where an occasional tie is decayed between opposite joints there is not so much chance for danger, but every joint tie should surely be kept in sound condition. Renewals should be made first at joints. Large quantities of excellent gravel ballast have been placed since the last inspection. Many sags and sink holes have been raised and grades bettered. The gravel is clean and free from "loam" and of good size. Considerable grading has been accomplished in various places. Attention has been given to shouldering out in many places. The alignment has been battered, and much more of this work is contemplated. The adjustment, particularly upon curves, should receive more attention. Attention should be given to proper spiking, especially at joints. This is also true upon bridge floors. The spacing upon floors, recently renewed, is four inches. This feature greatly enhances safety; but more spike should be used. The guard rails upon bridge floors should be better spiked and bolted. Bolts generally speaking were noted in very well, but many were found missing when the whole line is considered. The minor details upon this line should be more carefully watched. Angle bars of good cross section were noted, though many were found cracked or broken. Immediate renewal of such should be made. The rail was noted in very good condition as a close rule, though short pieces should not be allowed to remain in. Broken

rail should be replaced with full lengths. The practice of drilling and splicing should not be allowed. The line is fairly fenced, and great care is given to the item of general repairs. Notwithstanding this fact some instances were noted needing immediate attention. Grass and weeds were found well cared for as a rule. The switches were found in good condition upon most of the line. However, some were found needing attention in the minor details. Guard rails at frogs and points should all be bolted to the main rails and properly packed. Braces are not being used now upon the well maintained roads of the State. More attention should be given the ditches, particularly in wet cuts. Considerable work in this item has already been accomplished at places. The warning signs are not legal. It is certainly important that travelers upon the highway be able to at all times and from any position in the highway see the warning sign. Crossing plank at highways and farms should be kept in strong life. Repairs and pointing of stone culverts have received attention in many instances. Guards for turning stock should be maintained, and carelessness in not properly renewing when needed should not be allowed. The passenger stations were noted clean and neat generally, and drinking water at each was promised. Many of the stations have been painted since 1894, the last inspection. Some of the agents at the small stations should be careful to keep windows and floors clean. Shims should be taken out as soon as the frost leaves the ground. The right of way was noted generally clean. Old decayed ties should not be allowed to remain very long upon the property. Spare rails should always be kept in place. Clearance marks should be maintained, and when decayed or broken new ones should be placed immediately. Safety switches were noted in good working order where maintained. The immediate removal of trees and telegraph poles that stand near enough the track to cause derailment is desired. Many poles and trees were noted very close. The water ways, trestles and bridges were found well cared for as a rule. Sills should not be covered. Timber should not be allowed to remain when decayed enough to lessen in any degree the safe limit. Piles should not be allowed to remain when decayed and split wide open. Many were noted needing renewal. Oak ties are largely in use, and allowed to stay in too long. When a tie will not hold a spike it should be removed and a new one inserted. Chances should not be taken; and it is suggested that oak ties particularly should not be allowed under the rails after the heart is decayed and only a thin shell remains. I beams were noted in many places, and a general desire was noted upon day of inspection toward renewing timber, pointing and relaying masonry and the construction of new masonry of extra quality. Cattle passes that are not in use should be closed if

possible. Short rail on bridge floors should not be tolerated. Considerable work in widening cuts, near Buffalo particularly, was noted. All recent work is of the best; large, sound stone in abutments and good material in the bridges. Trestles were noted shortened, and some filled. This company evidently desires to do good work and purchases good material.

Olean to State Line — On New Castle and Oil City Line.

This line remains about the same as when previously inspected. It is fairly well maintained. Considerable gravel ballast has been placed. The line along the river should be straightened. It is very crooked, and many curves could without much expense be eliminated or greatly flattened. Trees and telegraph poles should be removed. At Wolf Run is to be erected a 40 foot semi-circular stone arch. Ties were noted as a rule very strong, of good section and very close together. Spare rail should be kept on brackets. Wet cuts should be drained. Bridge floor ties were noted very close together, generally in strong life. Highway signs should be legal. Fences should be kept up. Stock should not be allowed upon the right of way. Many I beams were noted in place since the last inspection. The new plate girder and through truss bridges recently erected were found ample in metal and upheld by excellent masonry. The date of erection and painting is neatly painted upon them. Most of the masonry upon this line has been pointed and grouted since the last inspection. The rail is not heavy but wears well, and was found in fair adjustment considering the track force. The long trestle near Allegheny station needs new floor. Otherwise it was noted good; also the two spans of iron bridging. Enough care is not taken with the minor details along the track. Bents should not be allowed in the beds of creeks, particularly mountain streams.

Buffalo to State Line—Pittsburg Division.

Telegraph poles and trees were noted too close to track on this line. Bolts missing and near frogs and joints. Spare rail were noted up generally, though not enough care is taken to replace when used in the track. The rail, which is 13 years old, still appears in fair condition, though too light. Cross ties were found very well renewed and of good size, though some were found much decayed. Rail on bridge floors should be better spiked, and guard rails should be thoroughly spiked and bolted. The fences were noted in a fair state of maintenance. Clearance marks were found well cared for. A number of trestles should be filled next year. At New Cemetery a trestle was noted filled and mas-

sive stone arch erected. Highway signs were noted unlawful. New passenger stations were noted of good design and with proper conveniences. Ballast material was plenty as a rule, and considerable was found recently placed. Trestle No. 9 has 19 bays over a creek, a winding stream, which should be straightened and bents in creek removed. The chief engineer said that each sill was fastened to the rock below. This precaution under ordinary circumstances is good, but chances should not be taken, and bents should not be allowed in a position where there is liability of being washed and undermined. Trestle No. 19 should be filled, the sills were noted covered. Rail on floor was not spiked properly. Great care should be given where two railroads maintain trestles, as this company and the Nickle Plate do. It is next to impossible to fix the blame in case of accident, and carelessness might easily cause great loss by sudden failure. The iron viaduct near Idlewood has been overhauled. Iron pins and eye bars should be renewed with steel and painted. The rail upon this structure should be fully spiked. An old station was noted too close to the track and should be removed. Near mile post 16, 800 feet of new siding was noted. A safety switch should be placed here. No. 13 trestle rail should be better spiked, guard rail should be blocked and sills uncovered. Caps should be kept clean. Cattle guards should be placed and maintained. Many poor ties at rail joints were noted. It is urgently suggested that all sills not covered by water be placed high and dry without delay. Each report suggests this, and yet no attention is paid. Crossing plank should be kept sound and in good position. Easement should be placed upon curves. The Silver creek trestle should be replaced with iron or steel viaduct next year. Water for fire protection upon bridge floors and trestles was noted on all lines. All bolts should be kept in at rail joints. Fruit trees were noted too close to the track. The trestle over street near Brocton station should receive attention. The station at Brocton is new, and the yard has been rearranged with many new sidings. Drinking water should be kept at all stations. Ties should be kept spaced properly and fully spiked. Short pieces of rail should be removed at once. There are too many openings for the mileage. Bolts were noted in better toward the State line. Broken angle bars should be replaced with new ones at once, particularly on bridge floors.

Rochester Division.

This line has received considerable attention in the past two years. Ballast material recently placed is of good size and not scanty. Cross ties have been renewed in large numbers, though many were noted decayed beyond the safe limit. Eleven miles of

67-pound steel rail was laid last year. The balance, 60-pound, stands the traffic well, generally speaking. Telegraph poles and trees were noted too close to the track, and should be removed. Cattle guards were noted up in place as a rule, though not enough care is given this item. Minor track details should receive more attention. A joint with broken angle bar, poor tie and loose spike should not be allowed to remain long. The track for quite a distance along the State feeder is partially under water and should be raised high and dry immediately. Drinking water should be kept at stations. Trees that stand a few feet from right of way line and upon adjacent land, if tall enough to reach over the track in the event of being struck by lightning or blown over by high winds, should be removed as well as those upon right of way. Highway signs are not legal. Mile posts should be erected. Ties should be spaced. Spare rail should be kept up at frequent intervals. Crossing plank should be kept in strong life. Many were noted poor in life. A mason gang should be given work upon this line. Many abutments were noted composed of small open jointed stone, leaning and braced temporarily. Rail bolts were noted fairly in place. Safety switches should be kept locked. Train order semaphores at stations were noted in good condition and design. Near mile post 14 from Rochester was noted rearranged line, shortening up about 370 feet and reducing the curvature greatly. This kind of work should be accomplished at a number of places along this line, and no doubt will be in the near future. A new connecting branch with the Lehigh Valley has been made since the last inspection near mile post 15. Passenger stations were found in good condition as a rule, and many newly painted.

Swain Branch.

This branch is maintained about as last reported. There is little traffic upon it, and only what is absolutely necessary to keep it fairly safe is done from time to time. The speed is very slow, and the grades quite heavy. Trees should be removed. Iron rails still remain as in 1894. Grass and weeds uncut. The structures in the roadbed were found as a rule well attended to and fairly safe. No ballast. More care should be given to minor track details. Great care should be given in watching the timber structures, and keeping them absolutely safe.

WEST SHORE RAILROAD.

Main Line — N. Y. C. & H. R. R. Co., lessee.

(Inspected September 14, 1896.)

This property has been improved in many respects since the last inspection. Beginning at Buffalo, the inspection this year con-

tinued eastward. The Buffalo division has received about 30 miles of new 67-pound rail; also a large quantity of gravel ballast. Three electric bells at highway crossings have been added since the last inspection. The steel and iron bridging has received considerable attention, and from observation all appeared, upon day of inspection, in good condition. The floor systems were noted generally strong in life of timber, and, as a rule, in good condition. A few of the minor openings consist of wooden stringers and framed bents. All were found safe at present. The near future will demand the renewal of parts. The masonry upon this division remains about as previously reported. It is to be hoped that much that is poor will be relaid next year. The plate girders stand well, and the small "I" beams also appear in good condition. Comparatively few have broken, and those that have been fractured have been replaced immediately with new ones or amply repaired. Guard rails should be placed about seven inches inside the gauge rails upon bridges and trestle floors. "Latimer guards" were noted at bridges, but the castings break easily, and many were noted broken. This device is intended to re-rail wheels, if they pass safely over the bridge floors. The inside guard rails will prevent wheels from "slewing," and safely carry trucks over the bridge floors. The old rail is much worn. The heavy traffic demands heavier rail. The highway signs at grade crossings should cover the highway. The track force is meagre. Trees should be removed where close enough to cause chance for derailment by lightning or high winds. (See sub-division 3, sec. 4, Railroad Law.) Telegraph poles should also be removed to a safe distance from the track. Shims were noted, showing lack of ballast material. Clearance marks were noted up and very well cared for as a rule. Fences were found in fair state of maintenance. Cattle guards were noted whitewashed, and, where up, in strong condition. More attention, however, is suggested in keeping the guards at all times in place. Shims should not be allowed upon bridge floors. Great care should be given to spiking on bridge floors. The rail should be spiked at every tie. Some decayed joint ties were noted. The year's supply of cross-ties will be short. Bridge approaches should be made wider. Spare rails were noted upon brackets quite frequently. Six new milk stations have been erected since the last inspection. Short rail should not be allowed in the tracks. Sills should not be allowed to remain under ground, as it prevents inspection, and the constant change from moisture to dryness quickly decays the timber. Sills should be kept high and dry upon stone foundations where possible, or protected constantly by being under water. Tell tales at overhead bridges should be kept in proper condition. Trestle No. 467, over the Montezuma marsh, should have new floor, and masonry

attended to. Attention should also be given the riveting. New decks are needed upon many of the bridges. A number were noted only recently renewed. A new telegraph line has been erected upon this division. Instead of poles standing within a few feet of the tracks in rock cuts a cable might be utilized. The station building at Genesee street, Utica, should be torn down and a suitable one erected. Much complaint has been made about this station, and it is urgently suggested that the company at an early date furnish suitable accommodations to the patrons of the road at this point. Many of the stations along the line need repairs. Drinking water should at all times be kept within easy reach, and attention given to neatness and order in stations. The Hudson River division received 23 miles of 67-pound rail in 1895 and about 17 miles in 1896. The cross-tie renewals have been good this year, and few were noted unable to hold spike. All the bridges have been painted this year. About 65 miles of new fence has been erected since the last inspection. Twelve sets of slat cattle guards have been erected this year. The division is well supplied in the various items, including clearance marks, safety switches, cattle guards, spike, bolts, ballast, ties, mile, whistle and ring posts, and the like. Care should be taken to eliminate all very short pieces of rail. The speed upon the division is great, and joints should be as few as possible. Bolts, while well in, as a rule, were noted in many instances loose, broken and missing. Spiking should receive more attention in many places, particularly upon bridges and trestle floors and at joints. Switches, when not in use, should be kept locked. The bridges upon this division appeared upon day of inspection in good condition, generally speaking. Parts that need attention will be overhauled before the winter sets in. Elevation blocks on bridge floors should be removed when noticed split or decayed, and not properly holding rail. Cedar Pond bridge is now braced between abutments with trusses. It is a dangerous place, and should be made positively safe at once. The passenger stations were found generally in good condition, neat and clean.

Chenango Branch.

Very little has been accomplished upon this line in the way of permanent betterment other than ordinary repairs to track, structures and roadbed. Clearance marks were noted up in fair condition. Trees were found too close to track, and should be removed. Square rail joints prevail, as when last inspected. Weeds and grass were noted upon track. No openings have been closed up recently. Two passenger and one freight train is run each way daily. Four men, on six miles of road, are expected to do all the work. This line should be ballasted. Telegraph poles were noted

too close to the track for safety. None of the structures in the roadbed have guard rails. There is considerable poor masonry which should be attended to. Highway grade crossing signs are not in accordance with the Railroad Law. Many of the stations need repairs. The cross-tie life is generally fair, though many were noted poor, particularly at joints. Ballast is so meagre that shims have to be used to a great extent. There are many small openings which could and should be closed up. Upon day of inspection the floors and stringers generally were found in safe condition, though repairs were needed in a few instances. Considerable timber was noted upon ground on day of inspection for ordinary repairs. The curves upon this line need care. Notwithstanding the various items needing attention, this road is in fair condition, considering the traffic upon it.

Albany Branch.

This property is in much the same condition as when last inspected. Trees should be removed from the track far enough to insure safety; bolts and spike should be ample, and care taken to keep the rails, particularly upon bridge floors, well fastened. Water for fire protection should be constantly kept upon floors of wooden bridges and trestles. Guard rail should be placed and firmly bolted and spiked. Wet cuts should be drained. The iron and steel bridging was found, generally speaking, in very good condition. This line has a good many trains over it daily, and care should be given to all the details. Spare rail should be constantly kept at hand at frequent intervals along the line. Spiking upon bridge floors should be full. Every tie should be spiked. The "I" beam openings were found in strong condition as a close rule.

MINUTES OF THE BOARD.

REPORTED IN PURSUANCE OF SECTION 166 OF THE RAILROAD LAW.

[For the treatment of complaints against corporations coming under the supervision of the Board, the following method of procedure has been adopted: Upon receipt of a complaint a copy of the letter of the complainant is at once forwarded to the officers of the corporation against which complaint is made, with the request to answer within ten days. Reply to the complaint is then transmitted to the complainant, and if the matter is not satisfactorily adjusted by correspondence, a public hearing is had before the Board and such order made as the evidence then adduced seems to warrant.]

ALBANY, OCTOBER 15, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

Application of the New York and Pennsylvania Railroad Company, for a certificate under section 59 of the Railroad Law. Hearing was adjourned from September 10 to this date. I. W. Near and J. B. Stanchfield, for the application. James H. Stevens, representing the New York, Lake Erie and Western Railroad Company, opposed. Arguments were heard, and affidavits submitted by the applicants. Decision reserved.

Application of the New York, Elmsford and White Plains Railway Company, for the approval of the Board of the operation of its railroad by the overhead electrical trolley system. Hearing adjourned from October 1. John H. Miller, counsel, appeared for the company. A notice was filed with the Board, by Mrs. Marie MacLean, stating that the company has been operating its road by electricity since October 1. Ordered approval granted, with the following additional condition: "This order shall in no wise be considered as an authorization on the part of the New York, Elmsford and White Plains Railroad to operate its road by electricity across the tracks of the Harlem Railroad Company."

Residents of Fuller's Station, etc., against the West Shore Railroad Company, asking for better train service. By agreement of both sides, hearing adjourned to a date to be hereafter fixed.

Complaints.

S. F. Penfield, of Hamden, N. Y., against the New York, Ontario and Western Railway Company, alleging excessive freight rates on flour, feed and grain. Copy sent the company.

W. J. Brooks (Brooks Bros.), coal dealers, Hibernia, N. Y., against the Philadelphia, Reading and New England Railway, alleging excessive freight rates on coal. Copy sent the company, and answer of the company received, as shown by letter on file. Copy of company's answer sent complainant.

I. Eugene Williams against the Buffalo, Rochester and Pittsburgh Railroad Company, complaining as to lack of station facilities, and asking that a station building be erected at East Ashford, Cattaraugus county. Copy sent the company.

Retsof Mining Company against the Genesee and Wyoming Valley Railroad Company, protesting against the proposed removal of an overhead crossing bridge. Answer of the company received. Ordered letter be written complainants, as shown on file, stating that if they have any ground for complaint it should be presented to the highway commissioners, etc.

John N. and Samuel H. Stoddard against the New York Central and Hudson River Railroad Company (Rome, Watertown and Ogdensburg division), as to farm crossing and fences. Answer of the company received, stating that an amicable understanding with complainants will probably be reached. Ordered copy sent complainants.

The Secretary informed the Board that the Inspector had reported the Jamestown and Lake Erie Railroad to be in a dangerous condition, and that the company had been notified to put it in safe condition; that E. T. Haines, general manager, had replied that the recommendations of the Inspector would be complied with.

Applications.

Application of the Kings, Queens and Suffolk Railroad Company for a certificate under section 59 of the Railroad Law. Ordered hearing set down for November 12, 11 a. m., at the rooms of the Chamber of Commerce, New York city, and that notice of hearing be published.

Application of the Oswego Street Railway Company for approval of increase of capital stock from \$125,000 to \$200,000. Ordered approved, if a detailed statement of the proposed expenditure is filed with the Board. (Such detailed statement was filed October 17, and approval was indorsed on certificates.)

Application of the Auburn City Railway Company, for approval of increase of capital stock from \$50,000 to \$250,000. Ordered approved, detailed statement of the proposed expenditure to be filed with the Board. (Such detailed statement was filed October 17, and approval was indorsed on certificates.)

Orders.

New York, Elmsford and White Plains Railway Company, for approval of the operation of its railroad by the overhead electrical trolley system. Ordered granted.

Oswego Street Railway Company, for approval of increase of capital stock from \$125,000 to \$200,000. Ordered granted, as stated above.

Auburn City Railway Company, for approval of increase of capital stock from \$50,000 to \$250,000. Ordered approved, as stated above.

Bills.

The following bills were approved:

American Express Company.....	\$1 60
National Express Company.....	5 50
Postal Telegraph Company.....	4 11
	<hr/>
	\$11 21

Board adjourned to meet at LeRoy, Tuesday, October 16, 8.30 a. m.

LE ROY, N. Y., OCTOBER 16, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley and Rickard.

In the matter of the application of the LeRoy and Northern Railroad Company for a certificate under section 59 of the Railroad Law, the Board gave a hearing, adjourned from October 1. M. H. Briggs, counsel, appeared for the company. E. Van Etten, general superintendent New York Central and Hudson River Railroad, and Charles Nellany, attorney New York, Lake Erie and Western Railroad Company, in opposition. After hearing arguments and evidence, the hearing was adjourned to Albany, 2 p. m., Tuesday, October 22.

ALBANY, OCTOBER 22, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

Application of the New York and Pennsylvania Railroad Company for a certificate under section 59 of the Railroad Law. Hearing was reopened at the request of counsel for the New York, Lake Erie and Western Railroad. James H. Stevens, appeared for the New York, Lake Erie and Western Railroad, and John B. Stanchfield for the petitioner. After hearing arguments and evidence, decision was reserved.

Application of the LeRoy and Northern Railroad Company for a certificate under section 59 of the Railroad Law. Hearing adjourned from October 16. J. S. Thompson, for the petitioners. Charles Nellany, counsel, for the New York, Lake Erie and Western Railroad Company, and Edgar Van Etten, general superintendent for the New York Central and Hudson River Railroad Company, in opposition. After hearing evidence and arguments, decision was reserved.

Applications of the Hudson River and Washington County Midland Railroad Company and the Greenwich and Schuylerville Railroad Company for certificates under section 59 of the Railroad Law. Pratt & Logan, counsel for the Hudson River and Washington County Midland Railroad Company; F. B. Delehanty, counsel for the Greenwich and Schuylerville Railroad Company. After hearing evidence, a recess was taken until Wednesday, October 23, 10 a. m.

Residents of Fuller's Station, etc., against the West Shore Railroad, asking for better train service. Ordered adjourned hearing be given, Tuesday, November 19, 2 p. m.

Charles W. Ecob (village of Sidney), against the Delaware and Hudson Canal Company, relative to gates at crossing. Hearing was adjourned from this date, at the request of the company. Ordered adjourned hearing be given, Tuesday, November 19, 2 p. m.

Complaints.

S. F. Penfield, of Hamden, N. Y., against the New York, Ontario and Western Railway Company, alleging excessive freight rates on flour, feed and grain. It appearing that the rates complained of are a matter of interstate commerce, ordered case closed, and letter written Mr. Penfield suggesting that he communicate with the Interstate Commerce Commission.

E. J. Schriver against the Staten Island Rapid Transit Company, relative to overcharge for tickets. Hearing is set down for Tuesday, November 12, at the Chamber of Commerce, New York city, 11.30 a. m.

The Secretary submitted the report of Charles F. Stowell, bridge engineer, employed by the Board to make a special inspection of the Central New York and Western Railroad, in connection with the officers of the

company and the Inspector of this Board. Ordered that a copy of the report of Mr. Stowell be sent the company, with an order making his recommendations those of the Board, which the company must comply with or an order will be issued to suspend operation of the road.

The Board took a recess until Wednesday, October 23, 10 a. m.

ALBANY, OCTOBER 23, 1895.

The Board convened at 10 a. m. Present, Commissioners Beardsley, Rickard and Chapin.

The hearing in the matter of the applications of the Hudson River and Washington County Midland Railroad Company and the Greenwich and Schuylerville Railroad Company, for certificates under section 59 of the Railroad Law, was resumed. After hearing further evidence, the hearings were adjourned until Monday, November 11, 2 p. m.

Bills.

The following bills were approved:

Charles F. Stowell.....	\$81 50
Rodgers, Ruso & Kelly.....	16 50
Weed-Parsons Printing Company.....	41 53
United Typewriter and Supplies Company.....	25 25
Hudson River Telephone Company.....	17 09
Western Union Telegraph Company.....	2 09
Western Union Telegraph Company.....	1 18
	<hr/>
	\$185 14
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The Board adjourned until Monday, November 11, at 2 p. m.

ALBANY, NOVEMBER 11, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

Applications of the Hudson River and Washington County Midland Railroad Company and the Greenwich and Schuylerville Railroad Company for certificates under section 59 of the Railroad Law. Pratt & Logan, counsel for the Hudson River and Washington County Midland Railroad Company; F. B. Delehanty, counsel for the Greenwich and Schuylerville Railroad Company. After hearing further evidence and arguments, the hearing was closed, and the Board took the papers.

Applications.

Application of the United States Commission of Fish and Fisheries for permission to use on its car No. 1, while in the State of New York, a cooking range, cut of which accompanied the application. Ordered application be granted.

Application of the Lewiston and Youngstown Frontier Railway Company for a certificate under section 59 of the Railroad Law. A hearing has

been set down for November 19, 2 p. m., at Albany, and notice ordered advertised.

Application of the New York Central and Hudson River Railroad Company for permission to abandon a station known as Riverview. Ordered application must be made by verified petition.

Communications.

Letter from John Byrne, President Central New York and Western Railroad, stating that the recommendations of the Board as to putting such road in safe condition will be complied with. Ordered filed.

Letter from E. B. Thomas, Receiver New York, Lake Erie and Western Railroad Company, as to inspection report on said road. Ordered filed.

Orders.

Application of the United States Commission of Fish and Fisheries for permission to use a cooking range. Ordered granted.

Bills.

The following bills were approved:

National Express Company.....	\$10 07
American Express Company.....	5 46
Postal Telegraph Company.....	2 83
Western Union Telegraph Company.....	3 11
W. W. Ayer & Son.....	5 00
A. M. Michael.....	75
National Press Intelligence Company.....	2 90
Rodgers, Ruso & Kelly.....	4 50
Stuart G. Spier.....	1 65
	<hr/>
	\$36 37

The Board took a recess until Tuesday, November 12, 11 a. m., Chamber of Commerce, New York city.

NEW YORK, NOVEMBER 12, 1895.

The Board met at 11 a. m. Present, Commissioners Beardsley, Rickard and Chapin.

Hearings.

Application of the Kings, Queens and Suffolk Railroad Company for a certificate under section 59 of the Railroad Law. John Sabine Smith, counsel for the application; W. J. Kelly, attorney Long Island Railroad Company, in opposition. After hearing evidence and arguments, the case was adjourned until Wednesday, November 13, 11.30 a. m.

The hearing in the case of E. J. Schriver against the Staten Island Rapid Transit Company, which was set down for this date, was put over until Thursday, November 14, 11 a. m.

The case of R. Williams against the Pelham Park Railroad Company, which was set down for this date, was put over until Thursday, November 14, 11 a. m.

Application of the Livonia and Lake Conesus Railroad Company for a certificate under section 59 of the Railroad Law. John W. Boyle, counsel for the application. No one in opposition. Ordered application granted.

Application of the North Mount Vernon Railway Company for approval

of an increase of capital stock from \$20,000 to \$250,000, for the purpose of extensions, changing to operation by the trolley system, etc. James A. Deering for the application. Ordered that no action be taken on this application until the company has applied to the Board for permission to operate by the overhead electrical trolley system.

The Board took a recess until Wednesday, November 13, at 11 a. m.

NEW YORK, NOVEMBER 13, 1895.

The Board met at 11 a. m. Present, Commissioners Beardsley, Rickard and Chapin.

Hearings.

E. J. Schriver against the Staten Island Rapid Transit Company, relative to overcharge for tickets. E. J. Schriver appeared for himself; A. B. Boardman, counsel, and F. S. Gannon, General Manager, for the company. After hearing statements and arguments, the Board reserved decision.

Application of the Kings, Queens and Suffolk Railroad Company for a certificate under section 59 of the Railroad Law. Appearances the same as yesterday. After hearing evidence and further arguments, decision was reserved; briefs to be filed.

The Board took a recess until Thursday, November 14, at 11 a. m.

NEW YORK, NOVEMBER 14, 1895.

The Board met at 11 a. m. Present, Commissioners Beardsley, Rickard and Chapin.

Hearings.

R. Williams against the Pelham Park Railroad Company. F. J. Bischoff, counsel for complainant; Greene & Johnson, for the company; Mr. Greene appearing. After hearing evidence and arguments, the case was adjourned until November 20, 11 a. m., Chamber of Commerce, New York city.

The Board adjourned until Tuesday, November 19, at 2 p. m.

ALBANY, NOVEMBER 19, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

Charles W. Ecob (village of Sidney) against the Delaware and Hudson Canal Company, relative to dangerous crossing at Main street. C. W. Ecob and H. G. Phelps appeared for complainants; Lewis E. Carr appeared by letter for the company. After hearing statements, the Board stated that it would issue a recommendation that an active and competent flagman be stationed at the Main street crossing until 11 p. m.

Residents of Fuller's Station, Guilderland, etc., against the West Shore Railroad, asking for better train service. W. H. Anthony and other residents of said places appeared for the complaint; the West Shore Railroad appeared by letter. Ordered that the case be indefinitely postponed, the Board stating that it would endeavor to have a morning train stopped, as an experiment, for a week or ten days.

Applications.

Application of the Lewiston and Youngstown Frontier Railway Company, for a certificate under section 59 of the Railroad Law. John G. Milburn for the application; no one in opposition. Ordered certificate granted.

Application of the LeRoy & Northern Railroad Company for a certificate under section 59 of the Railroad Law. M. H. Briggs and Andrew Hamilton, counsel, appeared and presented affidavits and arguments in favor of granting the certificate.

Application of the Buffalo Traction Company for a certificate under section 59 of the Railroad Law. Herbert P. Bissell presented the application. Ordered hearing set down for Tuesday, December 3, 10 a. m., Common Council Chamber, Buffalo, and notice of hearing be advertised.

Complaints.

I. Eugene Williams against the Buffalo, Rochester and Pittsburg Railroad Company, asking that a station building be erected at Riceville, in East Ashford. Answer of the company received, and copy sent complainant, and hearing set down for December 5, 4 p. m., at Buffalo.

Letter from Chapin & Co., of Buffalo, asking as to the right of a person other than the purchaser of a thousand-mile ticket book to use such book. Ordered answer written as shown by letter on file.

Orders.

Application of the Hudson River and Washington County Midland Railroad Company for a certificate under section 59 of the Railroad Law. Ordered granted, Commissioner Beardsley voting in the negative, Commissioners Rickard and Chapin in the affirmative. Petition in favor of said company filed.

Charles W. Ecob against the Delaware and Hudson Canal Company. The Board recommends that an active and competent flagman be stationed at the Main street crossing in the village of Sidney, until 11 p. m.

Application of the Lewiston and Youngstown Frontier Railway Company for a certificate under section 59 of the Railroad Law. Ordered granted.

The Board took a recess until Wednesday, November 20, 11 a. m., Chamber of Commerce, New York city.

NEW YORK, NOVEMBER 20, 1895.

The Board met at the Chamber of Commerce at 11 a. m. Present, Commissioners Beardsley, Rickard and Chapin.

Hearings.

R. Williams against the Pelham Park Railroad Company relative to excessive fare. E. H. Westerfield and F. J. Bischoff, counsel for complainant; Greene & Johnson (Mr. Greene appearing) for the company. After hearing evidence and argument, ordered the case be dismissed for reasons which appear in the minutes of testimony and as stated in the order.

The Board adjourned until Tuesday, December 3, at 10 a. m., at Buffalo.

BUFFALO, DECEMBER 3, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

Hearings.

Application of the Buffalo Traction Company for a certificate under section 59 of the Railroad Law. Appearances for the application, Wilson S. Bissell, Spencer Clinton, Herbert P. Bissell and Emory P. Close, counsel for the Buffalo Traction Company; appearances in opposition, John G. Milburn, Box, Norton & Bushnell, W. Caryl Ely, counsel for the Buffalo Railway Company; D. H. McMillan, counsel for protesting property-owners on Franklin street; Benjamin H. Williams, counsel, and Mr. Newman, for protesting property-owners on Utica street; Louis Stockton for himself and protesting property-owners on Delavan avenue; Charles M. Harrington, for protesting property-owners on Massachusetts avenue; W. E. Haupt, for protesting property-owners on Bouck avenue; F. R. Perkins, for protesting property-owners on Linwood avenue; W. H. Love, for protesting property-owners on Prospect avenue; Frank N. Loomis, for protesting property-owners on Chippewa street.

After hearing evidence, the Board took a recess until Wednesday, December 4, 10 a. m., for the purpose of making a personal inspection of the route of the proposed railroad.

The Board devoted the time between 2 and 6 p. m. to riding over a portion of the proposed route.

BUFFALO, DECEMBER 4, 1895, 10 A. M.

The Board continued the hearing in the above matter, and after hearing further evidence, took a recess until 8 p. m. The Board devoted the time between 2 and 6 p. m. in riding over a further portion of the route.

BUFFALO, DECEMBER 4, 1895, 8 P. M.

The Board continued the hearing in the above matter, and after hearing further evidence, took a recess until 10 a. m., December 5.

BUFFALO, DECEMBER 5, 1895, 10 A. M.

The Board continued the hearing in the above matter, and after hearing further evidence, took a recess in such matter until 8 p. m., and in the matter of I. Eugene Williams against the Buffalo, Rochester and Pittsburg Railroad Company, until 4 p. m. The Board devoted the time between 2 and 4 p. m. to riding over the remaining portion of the proposed route.

BUFFALO, DECEMBER 5, 1895, 4 P. M.

I. Eugene Williams against the Buffalo, Rochester and Pittsburg Railroad Company, asking for a station building at Riceville. E. E. Stedley and others for the complainants; J. S. Rockwell and Superintendent Hammond for the company. After discussion, the company agreed to roof a portion of a platform at present at the point, and to board it up for a few feet on the sides.

BUFFALO, DECEMBER 5, 1895, 8 P. M.

The Board continued the hearing in the matter of the Buffalo Traction Company for a certificate under section 59 of the Railroad Law. After hearing further evidence, recess until 10 a. m., December 6.

BUFFALO, DECEMBER 6, 1895, 10 A. M.

The Board continued the hearing in the Buffalo Traction Company matter. After hearing further evidence, the hearing was adjourned until 10 a. m., Tuesday, December 17, City Hall, Buffalo.

The Board adjourned to New York city, December 10.

NEW YORK, DECEMBER 10, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last two previous meetings were read and approved.

Hearings.

In the matter of the application of the Staten Island Electric Railroad for consent of the Board to cross the tracks of the Staten Island Rapid Transit Railroad, at a point in the village of Port Richmond, and at a point in the village of Edgewater. C. L. Kingsley, representing Tracy, Boardman & Platt, counsel for the Staten Island Rapid Transit Company, asked that an adjournment be had. J. M. Keating, representing the Staten Island Electric Railroad Company, the applicant, agreed to an adjournment. A. Reynaud, on behalf of the Staten Island Midland Railroad Company, noted an appearance. Ordered hearing be set down for Monday, December 23, 2 p. m., at Albany, unless another date for a hearing is hereafter fixed. Alexander S. Bacon, counsel, also noted an appearance for the Port Richmond and Prohibition Park Electric Railroad.

Application of the Terminal Railway, of Buffalo, for an increase of capital stock from \$500,000 to \$1,000,000. H. L. Sprague, counsel for the application. Ordered approved.

Mr. Greene (of Greene & Johnson), counsel for the Pelham Park Railroad Company, appeared relative to the manner in which the relations between the Pelham Park and City Island Railroad Companies shall be stated in the annual report. Ordered that it shall be stated in this way: "The City Island Railroad was operated by the Pelham Park Railroad Company under an agreement for the bondholders of the City Island Railroad."

Applications.

Application of the Terminal Railway of Buffalo for an increase of capital stock from \$500,000 to \$1,000,000. Ordered approved, as noted above, and following under "Orders."

Application of the Corning and Painted Post Street Railway for the approval of the Board of the operation of its railroad by the overhead electrical trolley system. Ordered hearing be set down for Monday, December 23, 2 p. m., at Albany, and that notice be advertised.

Application of the Niagara Falls Street Railway Company for a certificate under section 59 of the Railroad Law. Ordered hearing be set down at Albany, Monday, December 23, 2 p. m., and that notice be advertised in the newspapers.

Application of the Syracuse and Onelda Lake Electric Railway Company for a certificate under section 59 of the Railroad Law. Ordered hearing be set down for Monday, December 23, 2 p. m., at Albany, and that notice be advertised.

Complaints.

C. B. McNair against the Dansville and Mount Morris Railroad Company, relative to poor condition of fences along his land. Copy sent company and answer of company received; copy sent complainant.

N. B. Eccleston against the Delaware, Lackawanna and Western, the Delaware and Hudson and the New York, Ontario and Western Railroads, as to price of coal at Oxford. Ordered copies be sent the companies.

The Albany Commercial Travelers' Club against the New York, Ontario and Western, New York, Lake Erie and Western, Delaware, Lackawanna and Western and New York Central and Hudson River Railroads, relative to the practice in the issue of mileage books. Ordered answer be sent complainants, as shown by letter on file, and ordered that a recommendation of the Board in accordance with such letter be sent all railroad companies coming under the provisions of the Mileage Book Law, chapter 1027, Laws of 1895.

An affidavit of E. Van Etten, general superintendent New York Central and Hudson River Railroad, and a letter from E. B. Thomas, President Erie Railroad Company, were filed with the Board in the matter of the application of the LeRoy and Northern Railroad Company for a certificate under section 59 of the Railroad Law.

Report of the Inspector of his examination of the scene of the accident at Preble, on the Syracuse, Binghamton and New York Railroad, December 1. Adopted as amended. Ordered copy be sent the company.

Orders.

Application of the Terminal Railway of Buffalo for approval of an increase of capital stock from \$500,000 to \$1,000,000. Granted.

Application of the LeRoy and Northern Railroad Company for a certificate under section 59 of the Railroad Law. Denied.

Matter of the accident at Preble. Inspector's report adopted as amended and ordered sent the company.

Matter of mileage books. Ordered recommendation made as shown by copy on file.

Bills.

The following bills were approved:

Weed-Parsons Printing Company.....	\$94 25
National Express Company, for November.....	6 30
Postal Telegraph Company.....	3 52
Hudson River Telephone Company, for October.....	34 39
Hudson River Telephone Company, for November....	34 84
Western Union Telegraph Company, for November..	3 74
A. L. Judson.....	5 00
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	\$182 04

The Board went into executive session on the annual report, and before completing it, took a recess until Wednesday, December 11, 10 a. m., at the Hoffman House, New York city.

NEW YORK, DECEMBER 11, 1895.

The Board met at 10 a. m., and resumed consideration of the annual report in executive session.

The Board adjourned until Tuesday, December 17, at the City Hall, Buffalo, at 10 a. m.

BUFFALO, DECEMBER 17, 1895.

The Board met at 10 a. m., pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

Application of the Buffalo Traction Company for a certificate under section 59 of the Railroad Law. Appearances, the same as on December 8. After hearing further evidence, the Board took a recess until 2.30 p. m.

BUFFALO, DECEMBER 17, 1895, 2.30 P. M.

The Board convened at 2.30. All present.

The taking of evidence in the above matter was continued. The Board took a recess until Wednesday, December 18, 10 a. m.

BUFFALO, DECEMBER 18, 1895, 10 A. M.

The Board resumed the hearing in the above matter. All present. After hearing further evidence, the Board took a recess until 2.30 p. m.

BUFFALO, DECEMBER 18, 1895, 2.30 P. M.

The Board resumed the hearing in the above matter. All present. After hearing further evidence, both sides closed their case, and the matter was adjourned to Albany, 2 p. m., December 30, when both sides will be given opportunity to sum up. The Board took a recess until 8 p. m., to consider regular business.

BUFFALO, DECEMBER 18, 1895, 8 P. M.

The Board met at 8 p. m. All present.

Complaints.

C. B. McNair against the Dansville and Mount Morris Railroad Company, alleging poor condition of fences along his land. Reply of complainant to answer of company received. Copy sent the company.

Applications.

Application of the Albany, Helderberg and Schoharie Electric Railway Company for a certificate under section 59 of the Railroad Law. Ordered hearing be set down for January 6, 2 p. m., Albany, and notice be advertised.

Application of the Fulton and Oswego Falls Street Railway Company for increase of capital stock from \$15,000 to \$100,000. Ordered put over until December 23.

The Board went into executive session on the annual report, and at 11.30 adjourned until 9 p. m., December 19.

BUFFALO, DECEMBER 19, 1895, 9 P. M.

The Board met at 9 p. m., and proceeded to Niagara Falls and made an inspection of the present electric railroad there, and the proposed route of the Niagara Falls Street Railway Company, which has an application pending for a certificate under section 59 of the Railroad Law, a hearing on which was set down for December 23 at Albany. By consent of both sides, the hearing was changed to January 6, 2 p. m., to be held at Albany.

The Board adjourned until December 23, 2 p. m., at Albany.

ALBANY, DECEMBER 23, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley and Rickard.

The minutes of the last meeting were read and approved.

Hearings.

Application of the Syracuse and Oneida Lake Electric Railway Company for a certificate under section 59 of the Railroad Law. L. L. Waters, of Waters, McLennan & Waters, appeared for the application. After hearing evidence, certificate ordered granted.

Application of the Corning and Painted Post Street Railway Company for the approval of the Board of the operation of its railroad by the overhead electrical trolley system. W. J. Cheney, counsel for the application; no one in opposition. E. D. Mills, city attorney of Corning, appeared relative to the widening of a part of an overhead structure built by the Corning and Painted Post Railway Company over the track of the Fall Brook Railway in Corning. Ordered approval granted; also, that if an agreement is not arrived at as to the widening of the structure, the Board's Inspector will examine it.

The matter of the application of the Staten Island Electric Railroad for consent of the Board to cross the tracks of the Staten Island Rapid Transit Railroad at a point in the village of Port Richmond and at a point in the village of Edgewater. Communications were received from representatives of the Port Richmond and Prohibition Park Electric Railroad Company and Staten Island Midland Railroad Company, asking postponement of the hearing. No one appeared for the application. Ordered hearing adjourned indefinitely.

Applications.

Application of the Johnson Sub-Trolley Company for leave to experiment with electric motive power on the tracks of the Metropolitan Street Railway Company, on Thirty-fourth street, between Tenth avenue and the Hudson river, New York city. Ordered that a letter be written applicant stating the Board has no power to grant such permits, but that, in view of the fact that the Johnson Sub-Trolley Company has the consent of the local authorities, as well as that of the railroad company, this Board does not see that the company requires anything further.

Application of the Fulton and Oswego Falls Street Railway Company for approval of the Board of an increase of capital stock from \$15,000 to \$100,000. Ordered approval granted.

Application of the Portchester Electric Railway Company for a certificate under section 59 of the Railroad Law. Ordered letter written as on file.

Complaints.

N. B. Eccleston against the Delaware and Hudson Canal Company, the New York, Ontario and Western Railway and the Delaware, Lackawanna and Western Railroad, relative to price of coal at Oxford. Answers of the Delaware and Hudson Canal Company and the Delaware, Lackawanna and Western Railroad Company received. Copies sent complainant.

E. J. Schriver against the Staten Island Rapid Transit Railroad Company, relative to overcharge for certain tickets, and limit in time to get rebate. Letter received from Robert T. S. Fiske, also complaining in this matter. Ordered that he be answered that the matter is now pending before the Board.

Orders.

Syracuse and Oneida Lake Electric Railway Company, for a certificate under section 59 of the Railroad Law. Granted.

Corning and Painted Post Street Railway Company, for the approval of the Board of the operation of its railroad by the overhead electrical trolley system. Granted.

Fulton and Oswego Falls Street Railway Company, for approval of the Board of an increase of capital stock from \$15,000 to \$100,000. Granted.

Bills.

The following bills were ordered approved:

Postal Telegraph Cable Company.....	\$3 66
American Express Company.....	2 25
Hudson River Telephone Company.....	3 36
Matthew Bender.....	6 00
Hudson River Telephone Company.....	34 39
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	\$49 66
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The Board adjourned until December 30, at 2 p. m.

ALBANY, DECEMBER 30, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Complaints.

N. B. Eccleston against the Delaware and Hudson Canal Company, the New York, Ontario and Western Railway and the Delaware, Lackawanna and Western Railroad Company, relative to the price of coal at Oxford. Answer of the New York, Ontario and Western Railway received. Copy sent complainant. Ordered complainant be written letter as on file.

Complaint of A. G. Raymond, of Sherburne, relative to the price of coal at that place. Ordered he be written, as shown by letter on file.

H. M. Caswell against the West Shore Railroad, complaining of the rate of fare between Malden and Kingston. Copy sent company.

Applications.

Application of the Brooklyn Bridge, Prospect Park and Eastern Railroad Company for a certificate under section 59 of the Railroad Law. Ordered hearing set down at the City Hall, Brooklyn, January 15, 11 a. m., and notice be advertised.

Application of the Metropolitan Street Railway Company and the Twenty-third Street Railway Company, for the approval of the Board of a change of motive power from horses to an underground current of electricity. Ordered hearing set down for January 14, 11 a. m., Chamber of Commerce, New York city, and notice be advertised.

Application of the Metropolitan Street Railway Company for the approval of the Board of the use of an underground current of electricity upon that portion of its railroad upon Lexington avenue between One Hundred and Fifth street and the Harlem river. Ordered hearing set down for January 14, 11 a. m., Chamber of Commerce, New York city, and notice be advertised.

Application of the Middlesex Valley Railroad Company for the consent of the Board to a change of location of the station at Gorham. J. G. Metcalfe and J. F. Schappterkotter for the application; J. G. Gillette in opposition. After hearing argument, decision reserved.

Hearings.

Application of the Buffalo Traction Company for a certificate under section 59 of the Railroad Law; last hearing. The case was summed up by Spencer Clinton for the application, and by John G. Milburn, D. H. McMullan and Frank Perkins in opposition.

Application of the Middlesex Valley Railroad Company for the consent of the Board to a change of location of the station at Gorham. J. G. Metcalfe and J. F. Schappterkotter for the application; J. G. Gillette in opposition. After hearing argument, decision reserved.

Recess until 10 a. m. Wednesday, December 31.

ALBANY, DECEMBER 31, 1895.

The Board met at 10 a. m. Present, Commissioners Beardsley, Rickard and Chapin.

The Board considered the annual report and pending cases. The Board adjourned until Monday, January 6, at 2 p. m.

ALBANY, JANUARY 6, 1896.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

Application of the Albany, Helderberg and Schoharie Electric Railway Company for a certificate under section 59 of the Railroad Law. L. C. Warner, counsel for the application; L. E. Carr, counsel Delaware and Hudson Canal Company, and James F. Tracey, attorney for the Albany, Rensselaerville and Schoharie Turnpike Company, in opposition. After hearing evidence and arguments in open session and evidence as to ability to build the road, in executive session, the hearing was adjourned to Monday, January 20, 3 p. m.

The Board took a recess until Tuesday, January 7, 10 a. m.

ALBANY, JANUARY 7, 1896.

The Board met at 10 a. m. Present, Commissioners Beardsley, Rickard and Chapin.

The Secretary submitted a letter received from Merrill & Rogers, attorneys of the Second Avenue Railroad Company, of New York city, asking if consents of property-owners to change of motive power, heretofore obtained, will answer in a new application to be made by that company for a change of motive power. Ordered answer be made as shown by letter on file.

In the matter of the application of the Niagara Falls Street Railway Company for a certificate under section 59 of the Railroad Law, at the request of the applicant, and W. Caryl Ely, who appeared in opposition, the hearing, which was to have taken place in Albany, January 6, was postponed to Niagara Falls, January 22, 10.30 a. m. Ordered notice of the adjourned hearing be advertised for one week preceding the hearing in the *Niagara Falls Gazette* and the *Niagara Falls Cataract*.

Bills.

The following bills were approved:

National Press Intelligence Company.....	\$2 70
National Express Company.....	3 10
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	\$5 80
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The Board adjourned until Tuesday, January 14, 11 a. m., Chamber of Commerce, New York city.

NEW YORK, JANUARY 14, 1896.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

Application of the Metropolitan Street Railway Company and the Twenty-third Street Railway Company for the approval of the Board of a change of motive power from horses to an underground current of electricity upon Twenty-third street from the North river to the East river. H. A. Robinson, counsel for the application; no one in opposition. Ordered approval granted.

Application of the Metropolitan Street Railway Company for the approval of the Board of a change of motive power from horses to an underground current of electricity upon that portion of its system which lies on Lexington avenue between One Hundred and Fifth street and the Harlem river. H. A. Robinson, counsel for said application; no one in opposition. Ordered approval granted.

Application of the Staten Island Electric Railroad Company for consent to cross the tracks of the Staten Island Rapid Transit Railroad Company, in the villages of Edgewater and Port Richmond. No one appeared for the application; Albert Reynaud, counsel for the Staten Island Midland Railroad Company, appeared on behalf of the Staten Island Midland Railroad Company, in opposition to the proposed crossing in the village of Port Richmond. Ordered that the application be dismissed without prejudice to renewal.

Complaints.

Herbert M. Caswell against the West Shore Railroad, relative to rates of fare from Malden to Kingston. Answer of the company received. Copy of answer sent complainant. Letter from complainant in answer thereto, and letter of the Board to complainant. Ordered case closed.

Complaint of A. Archibald, of Rochester, N. Y., relative to issue of mileage books by the Erie, the Delaware, Lackawanna and Western and the Rome, Watertown and Ogdensburg Railroads. Letter written complainant stating the action of the Board in regard to the issuance of mileage books by railroad companies under chapter 1027 of the Laws of 1895.

E. D. Northrup against the Buffalo, Rochester and Pittsburg Railroad Company, relative to train connections at Little Valley. Ordered copy be sent the company.

Letters were received from the New York, Susquehanna and Western Railroad Company and the Delaware, Lackawanna and Western Railroad Company, in response to the recommendation of the Board as to mileage books.

Orders.

Application of the Metropolitan Street Railway Company and the Twenty-third Street Railway Company, for the approval of the Board of a change of motive power from horses to an underground current of electricity upon Twenty-third street from the North river to the East river. Ordered granted.

Application of the Metropolitan Street Railway Company for the approval of the Board of a change of motive power from horses to an underground current of electricity upon that portion of its system which lies on Lexington avenue between One Hundred and Fifth street and the Harlem river. Ordered granted.

The Board took a recess until 2 p. m., at the Hoffman House.

NEW YORK, JANUARY 14, 1896, 2 P. M.

The Board met at the Hoffman House, in executive session, and at 6 p. m. took a recess until Wednesday, January 15, at 11 a. m., at the City Hall, Brooklyn.

BROOKLYN, JANUARY 15, 1896.

The Board met at the City Hall, at 11 a. m. Present, Commissioners Beardsley, Rickard and Chapin.

Hearings.

Application of the Brooklyn Bridge, Prospect Park and Eastern Railroad Company for a certificate under section 59 of the Railroad Law. Charles A. Collin, counsel for the application; James C. Church, counsel in opposition; J. P. Curtis, property-owner, also appeared. Without taking any evidence, the hearing was adjourned until Tuesday, January 28, 11 a. m., at the City Hall, Brooklyn.

The Board took a recess until 2 p. m., at the Hoffman House, New York city.

NEW YORK, JANUARY 15, 1896, 2 P. M.

The Board met at the Hoffman House, in executive session, and at 6 p. m. took a recess until 10 a. m., Thursday, January 16.

NEW YORK, JANUARY 16, 1896, 10 A. M.

The Board met at the Hoffman House, in executive session, and at 1 p. m. took a recess until 2 p. m.

NEW YORK, JANUARY 16, 1896, 2 P. M.

The Board met at the Hoffman House, in executive session, and at 6 p. m. took a recess until Friday, January 17, 10 a. m.

NEW YORK, JANUARY 17, 1896, 10 A. M.

The Board met at the Hoffman House, in executive session, and at 12.30 p. m. took a recess until 2 p. m.

NEW YORK, JANUARY 17, 1896, 2 P. M.

The Board met at the Hoffman House, in executive session, and at 3.30 p. m. took a recess until Saturday, January 18, at 9.30 a. m.

NEW YORK, JANUARY 18, 1896, 9.30 A. M.

The Board met at the Hoffman House, in executive session, and at 11 a. m. took a recess until 12.30 p. m.

NEW YORK, JANUARY 18, 1896, 12.30 P. M.

The Board met at the Hoffman House, in executive session, and at 2 p. m. adjourned to Albany, Monday, January 20, 2 p. m.

ALBANY, JANUARY 20, 1896.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

The hearing in the application of the Albany, Helderberg and Schoharie Electric Railway Company, for a certificate under section 59 of the Railroad Law, which was to be held to-day, was adjourned until Monday, February 3, 2 p. m.

Complaints.

Letters were received from the Erie Railroad Company, the Delaware and Hudson Canal Company, the Lehigh Valley Railroad Company, the

New York, Ontario and Western Railway Company, the New England Railroad Company, the New York, New Haven and Hartford Railroad Company, the Northern Central Railroad Company and the Elmira, Cortland and Northern Railroad Company, in response to recommendation of the Board as to mileage books.

Applications.

The matter of the application of the Staten Island Electrical Railway Company for consent to cross the tracks of the Staten Island Rapid Transit Railroad Company, in the villages of Edgewater and Port Richmond, which was dismissed without prejudice to renew said application January 14, was again presented by petition, and a hearing set down for Thursday, January 30, 11 a. m., at the Chamber of Commerce, New York city.

Application of the Binghamton, Lestershire and Union Railroad Company for approval of an increase of its capital stock from \$100,000 to \$250,000. G. T. Rogers, President of the company, appeared for the application. The Board took the papers and reserved decision.

Application of the Staten Island Midland Railroad Company for approval of an increase of capital stock from \$150,000 to \$1,000,000. Albert Reynaud, counsel, appeared for the application. The Board took the papers and reserved decision.

Application of the Empire City Traction Company for a certificate under section 59 of the Railroad Law. Ordered hearing set down for Thursday, January 30, 11 a. m., Chamber of Commerce, New York city, and notice ordered advertised.

Bills.

The following bills were approved:

Hudson River Telephone Company.....	\$21 49
Postal Telegraph Cable Company.....	17 22
Western Union Telegraph Company.....	3 76
	<hr/>
	\$42 47
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The Board took a recess until Tuesday, January 21, 10 a. m.

ALBANY, JANUARY 21, 1896, 10 A. M.

The Board met at 10 a. m. Present, Commissioners Beardsley, Rickard and Chapin.

It was moved and seconded that the application of the Kings, Queens and Suffolk Railroad Company for a certificate under section 59 of the Railroad Law, be refused, and that the opinion presented be made the opinion of the Board. Adopted unanimously.

It was moved and seconded that the application of the Buffalo Traction Company for a certificate under section 59 of the Railroad Law be refused, and that the opinion presented be made the opinion of the Board. Adopted unanimously.

The Board adjourned until Wednesday, January 22, at Niagara Falls, 10.30 a. m.

NIAGARA FALLS, JANUARY 22, 1896.

The Board met at 10.30 a. m., pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

In the matter of the application of the Niagara Falls Street Railway Company for a certificate under section 59 of the Railroad Law, the Board

inspected the route of the proposed railroad, accompanied by S. J. Lawrence, counsel for the applicant, and W. Caryl Ely, counsel for the Niagara Falls and Suspension Bridge Railroad Company, in opposition. After the inspection of the proposed route, the Board met and heard evidence and arguments in favor of the application, and took a recess until 2 p. m.

NIAGARA FALLS, JANUARY 22, 1896, 2 P. M.

The Board resumed the hearing in the above matter and took further evidence for and against the application until 7 p. m., when the matter was adjourned until February 4, 10 a. m., at Albany, for the filing of affidavits and summing up.

The Board adjourned until 11 a. m., Tuesday, January 28, at the City Hall, Brooklyn.

BROOKLYN, JANUARY 28, 1896.

The Board met pursuant to adjournment, in the Common Council Chamber, City Hall. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the meetings held January 14, 15, 16, 17, 18, 20, 21 and 22 were read and approved.

Hearings.

Application of the Brooklyn Bridge, Prospect Park and Eastern Railroad Company for a certificate under section 59 of the Railroad Law. C. A. Collin, counsel for the application; J. C. Church, counsel for the East River and Atlantic Ocean Railroad Company, and John R. Kuhn, counsel for property-owners on Monroe street, and J. P. Curtis, representing property-owners on Pacific street, in opposition. After hearing some evidence as to Monroe street, the hearing was adjourned until Wednesday, the 29th inst., at 11 a. m.

The Board took a recess until January 29, 11 a. m., at Common Council Chamber, City Hall, and between 12.30 and 3 p. m. drove over parts of the proposed route, in company with a representative of the applicant company and a representative of the East River and Atlantic Ocean Railroad Company.

BROOKLYN, JANUARY 29, 1896.

The Board met at 11 a. m. Present, Commissioners Beardsley, Rickard and Chapin.

Hearings.

The hearing in the application of the Brooklyn Bridge, Prospect Park and Eastern Railroad Company for a certificate under section 59 of the Railroad Law was resumed. W. F. Sheehan appeared for the application. The appearances in opposition were the same as yesterday, with the exception of Mr. Stephen M. Hoyer, who appeared for property-owners in opposition. After hearing further evidence, the hearing was adjourned until Tuesday, February 11, 11 a. m., at the Common Council Chamber, City Hall, Brooklyn.

The Board took a recess until January 30, at the Chamber of Commerce, New York city, and between the hours of 2 and 4 p. m. went over further portions of the proposed and existing route in company with representatives of the applicant company and of the East River and Atlantic Ocean Railroad Company.

NEW YORK, JANUARY 30, 1896.

The Board met at the Chamber of Commerce at 11 a. m. Present, Commissioners Beardsley, Rickard and Chapin.

Hearings.

Application of the Empire City Traction Company for a certificate under section 59 of the Railroad Law. Edward Lauterbach, counsel for the applicant; H. A. Robinson, counsel for railroad company in opposition, and R. J. Moses, George W. Poucher and B. F. Romaine for property-owners on Ninety-seventh street, New York city, in opposition. After hearing arguments, the hearing was adjourned until Friday, February 14, 11 a. m., at the Chamber of Commerce, New York city.

Application of the Staten Island Electric Railroad Company for consent to cross the tracks of the Staten Island Rapid Transit Company, in the villages of Port Richmond and Edgewater. Julian T. Davies, counsel for said application; Lester W. Clark, representing the Staten Island Rapid Transit Company, not opposed to the application; Albert Reynaud, counsel for the Staten Island Midland Railroad Company, in opposition to the proposed crossing in the village of Port Richmond. Ordered that both applications be granted, as shown by orders on file.

In the matter of the application of the Staten Island Midland Railroad Company for an increase of capital stock from \$150,000 to \$1,000,000. Albert Reynaud, counsel, appeared for the application. Ordered application granted.

Inspections.

The report of the Inspector as to his inspection of the Kings County Elevated Railroad Company was submitted to the Board; approved, and a copy ordered sent to the company.

Complaints.

A letter was received from the Central Vermont Railroad relative to the recommendation of the Board in the matter of mileage books.

Orders.

Application of the Staten Island Electric Railroad Company for consent to cross the tracks of the Staten Island Rapid Transit Company, in the villages of Port Richmond and Edgewater. Ordered granted, as shown by orders on file.

Application of the Staten Island Midland Railroad Company for an increase of capital stock from \$150,000 to \$1,000,000. Ordered granted.

The Board adjourned until February 3, 2 p. m., at Albany.

ALBANY, FEBRUARY 3, 1896.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

Hearings.

Application of the Albany, Helderberg and Schoharie Railroad Company for a certificate under section 59 of the Railroad Law. L. C. Warner and Hobart Crum, counsel for the applicant; L. E. Carr, counsel for the Delaware and Hudson Canal Company, in opposition; Isaac H. Maynard,

counsel for the Schoharie Valley Railroad Company, in opposition; and James F. Tracy, counsel for the Albany, Rensselaerville and Schoharie Plank Road Company. After hearing evidence and arguments, the hearing was adjourned until Monday, February 24, 2 p. m.

The Board took a recess until Tuesday, February 4, 10 a. m.

TUESDAY, FEBRUARY 4, 1896.

The Board met at 10 a. m. Present, Commissioners Beardsley, Rickard and Chapin.

Hearings.

Application of the Niagara Falls Street Railway Company for a certificate under section 59 of the Railroad Law. S. J. Lawrence, counsel for the applicant; W. Caryl Ely, counsel for the Niagara Falls and Suspension Bridge Railway Company, in opposition. Further evidence and affidavits were submitted, after which each side rested its case and the evidence was declared closed, briefs to be submitted on or before March 2.

Complaints.

C. B. McNair against the Dansville and Mount Morris Railroad Company, relative to the poor condition of the fences. Answer of the company received, agreeing to repair fences as soon as the weather permits. Ordered copy transmitted complainant.

E. D. Northrup against the Buffalo, Rochester and Pittsburg Railroad Company, relative to train connections at Little Valley and other places in Cattaraugus county. The answer of the company and reply of the complainant was submitted to the Board, and the Secretary was directed to write the company for information relative to time-tables and receipts at the stations in regard to which the complaint is made.

A complaint was presented by N. E. White, Secretary of the Jobbers' Association of the city of Utica, relative to alleged unlawful increase of freight rates by the Traffic Association, and alleged discrimination in freight charges against the city of Utica. Ordered letter written complainant (see letter on file).

C. H. Twichell against the Erie Railroad, complaining as to the condition of the station building at North Collins. Ordered copy of letter be sent the company.

Residents of Nunda against the Western New York and Pennsylvania Railroad Company, asking that the company be compelled to maintain a freight-house in the village of Nunda. Ordered copy sent the company.

Orders.

In the matter of the application of the Binghamton, Lestershire and Union Railroad Company for the approval of the Board of an increase of its capital stock from \$100,000 to \$250,000. Additional evidence and affidavits being submitted setting forth in detail the purposes for which the increased capital stock is desired. Ordered that the application be granted, and that the certificates be indorsed to that effect.

In the matter of the application of the Middlesex Valley Railroad Company for consent to discontinue the station at Gorham, under section 34 of the Railroad Law. Ordered that the application be denied without prejudice to renewal.

Bills.

The following bills were approved:

G. A. Birch.....	\$3 95
James B. Lyon.....	60 50
Margaret E. Templeton.....	6 70
Western Union Telegraph Company, January.....	2 40
C. R. DeFreest.....	18 50
E. C. McEntee.....	34 05
E. C. McEntee.....	16 85
Hudson River Telephone Company.....	21 49
Western Union Telegraph Company, December.....	3 76
American Express Company.....	2 49
Postal Telegraph-Cable Company, December.....	17 22
	<hr/>
	\$187 91

The Board took a recess until February 5, at 8.30 a. m.

WEDNESDAY, FEBRUARY 5, 8.30 A. M.

The Board met at 8.30 a. m. Present, Commissioners Beardsley and Rickard.

The members of the Board then proceeded to make an inspection of the proposed route of the Albany, Helderberg and Schoharie Electric Railway Company, at the completion of which the Board adjourned to meet in the City Hall, at Brooklyn, on February 11, at 11 a. m.

BROOKLYN, FEBRUARY 11, 1896.

The Board met pursuant to adjournment, in the Common Council Chamber, City Hall. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the meetings of January 20, 21, 22, 23, 29, 30, and February 3, 4 and 5 were read and approved.

Hearings.

Application of the Brooklyn Bridge, Prospect Park and Eastern Railroad Company for a certificate under section 59 of the Railroad Law. Sheehan & Collin, for the application; J. C. Church, for the East River and Atlantic Ocean Railroad Company; John R. Kuhn, counsel for property-owners on Monroe street, and F. B. Bellamy, W. P. Hill, Joshua Van Cott, William C. Beecher and Porter & Kilvert, for property-owners on Hicks street, between Atlantic avenue and Cranberry street, and other streets, in opposition. After discussion of an application for postponement made by the applicant, a recess in the matter was taken until 2 p. m., February 11.

Theodore S. Jenkins and others against the Prospect Park and Coney Island Railroad Company. No one appeared for the complainant when the case was first called. W. J. Kelly, counsel, for the company. Subsequently the complainant appeared, and the hearing was fixed for Thursday, February 13, 11 a. m.

Applications.

Application of the Tarrytown Electric Railway for a certificate under section 59 of the Railroad Law. Ordered hearing set down, at the Cham-

ber of Commerce, New York city, Tuesday, February 18, 11 a. m., and notice be advertised.

Application of the Watkins and Havana Railroad Company for a certificate under section 59 of the Railroad Law. Ordered hearing set down for Monday, February 24, 2 p. m., at Albany, and notice be advertised.

Complaints.

A letter was received from the New York Central and Hudson River Railroad Company relative to the sale of mileage books by the Rome, Watertown and Ogdensburg Railroad Company.

Theodore S. Jenkins and others against the Prospect Park and Coney Island Railroad Company, alleging insufficient train service.

C. A. Twichell against the Erie Railroad Company, complaining of the condition of the station building at North Collins, Erie county. Answer of the company received, stating that "instructions have been issued to erect a new station building at this place, and the work will be commenced as early as possible."

The Board took a recess until 2 p. m.

BROOKLYN, FEBRUARY 11, 1896, 2 P. M.

The Board met at 2 p. m., all present, and resumed the hearing in the matter of the application of the Brooklyn Bridge, Prospect Park and Eastern Railroad Company for a certificate under section 59 of the Railroad Law. Appearances as at 11 a. m., with the addition of James McKeen (32 Nassau street, New York city), and Wm. G. Low (44 Cedar street, New York city), for property-owners on Hicks street, in opposition.

Without taking further evidence, the matter was adjourned until Tuesday, March 31, 11 a. m., Common Council Chamber, City Hall, Brooklyn.

The Board took a recess until 10.30 a. m. Wednesday, February 12, at which time Commissioners Beardsley and Rickard made an inspection of a further part of the proposed route of the Brooklyn Bridge, Prospect Park and Eastern Railroad.

The Board adjourned until Thursday, February 13, 11 a. m., Common Council Chamber, Brooklyn.

BROOKLYN, FEBRUARY 13, 1896.

The Board met at 11 a. m. Present, Commissioners Beardsley, Rickard and Chapin.

Hearings.

Theodore S. Jenkins and others against the Prospect Park and Coney Island Railroad Company. George C. Eldridge, E. F. Williams and James A. Townsend, for complainants; W. J. Kelly for the company. After hearing evidence and arguments, it was ordered that the former train service on the road be restored, and that one train in the middle of the day, which will least discommode the travelling public, may be taken off.

The Board adjourned until 11 a. m. Friday, February 14, at the Chamber of Commerce, New York city.

NEW YORK, FEBRUARY 14, 1896.

The Board met at 11 a. m. Present, Commissioners Beardsley, Rickard and Chapin.

Hearings.

Application of the Empire City Traction Company for a certificate under section 59 of the Railroad Law. Hoadly, Lauterbach & Johnson, by W. H. Page, Jr., for the application; H. A. Robinson, counsel, in opposition, and R. J. Moses, D. B. Willmot and B. F. Romaine, for property-owners on Ninety-seventh street, New York city, in opposition. After discussion, the hearing was adjourned until Wednesday, March 4, 11 a. m., Chamber of Commerce, New York city.

Applications.

Application of the Syracuse and Onelda Lake Electric Railway Company for an approval of an increase of its capital stock from \$300,000 to \$500,000. L. S. Waters, of McLennan, Waters & Baldwin, counsel for the application. After the presentation of the case, the Board took the papers and reserved decision, Mr. Waters stating that he would produce the engineer of the road before the Board on February 24.

J. Archibald Murray appeared and asked the Board for its ruling on the question of whether engines, dynamos and the fittings of a power-house are "equipment." The Board stated that it had so determined, but that if application is made for it to pass upon a specific case, it would consider it. The Board adjourned.

NEW YORK, FEBRUARY 18, 1896.

The Board met pursuant to adjournment at the Chamber of Commerce. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the meetings of February 11, 12, 13 and 14 were read and approved.

Hearings.

Application of the Tarrytown Electric Railway Company for a certificate under section 59 of the Railroad Law. Robert Sewell, counsel for the application; F. B. Millard, attorney for the village of Tarrytown, in opposition to the railroad being located on the streets named in its articles of association; John H. Miller, counsel for the New York, Elmsford and White Plains Railroad Company, in opposition to the building by the Tarrytown Electric Railway Company. After hearing arguments and evidence, the hearing was adjourned until March 5, 11 a. m., Chamber of Commerce, New York city.

Complaints.

Residents of the village of Nunda against the Western New York and Pennsylvania Railroad Company, asking that a freight station be established in said village. Answer of the company received, and copy sent complainants.

James F. Secor, Jr., and others against the New York, New Haven and Hartford Railroad Company, alleging lack of toilet accommodations on the cars of said company on the Harlem River and Portchester branch. Copy sent the company.

I. Eugene Williams against the Western New York and Pennsylvania Railroad Company, relative to a station at East Ashford. Letter written complainant as shown by copy on file.

E. D. Northrup against the Buffalo, Rochester and Pittsburg Railroad Company, relative to train connections at Salamanca and Little Valley.

Report of the Inspector received, and ordered that his recommendations be made the recommendations of the Board.

B. K. White, of Stanfordville, against the Poughkeepsie and Eastern Railroad Company, asking that they be required to drain a parcel of land alleged to have been flooded through their neglect, etc. Copy sent company.

H. Barnum against the Delaware, Lackawanna and Western Railroad Company, relative to the issuing of mileage books. The Secretary was directed to notify the company that if the facts as alleged by Mr. Barnum were true, the company was not, in the judgment of the Board, complying with the law, and that mileage books should be placed on sale at the principal offices of the company available for immediate purchase, and that the purchaser should neither be compelled to make application to the general office in New York or delayed in obtaining the mileage book until it could be received from the New York office.

Applications.

Application of the Stillwater and Mechanicville Street Railway Company, requesting a modification of an order of the Board, dated May 7, 1895, relative to a derailing switch at the crossing of the tracks of the Rensselaer and Saratoga Railroad. Ordered that the request be denied.

The Board adjourned. The Board proceeded to Tarrytown and inspected the proposed route of the Tarrytown Electric Railway Company.

ALBANY, FEBRUARY 24, 1896.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

Application of the Albany, Helderberg and Schoharie Electric Railway Company for a certificate under section 59 of the Railroad Law. Appearances as on February 3, 1896. After hearing further evidence, the hearing was adjourned until Monday, March 9, 2 p. m., hearing to be closed that day.

Application of the Watkins and Havana Railroad Company for a certificate under section 59 of the Railroad Law. John B. Stanchfield for the application; no one in opposition. Application ordered granted.

Application of the Syracuse and Oneida Lake Electric Railway Company for approval of an increase of capital stock from \$300,000 to \$500,000. L. S. Waters, of Waters, McLennan & Waters, counsel for the application. After hearing argument and evidence, the Board took the papers and reserved decision.

Complaints.

Residents of the village of Nunda against the Western New York and Pennsylvania Railroad Company, asking that a freight station be established in said village. Reply of complainants to answer of company received. Ordered hearing set down at village of Nunda for Thursday, February 27, 11.30 a. m.

E. D. Northrup against the Buffalo, Rochester and Pittsburg Railroad Company, relative to train connections at Salamanca and Little Valley. A letter was received from complainant. Ordered fled.

James Secor, Jr., and others against the New York, New Haven and Hartford Railroad Company, alleging lack of toilet accommodations on the cars of said company on the Harlem River and Portchester branch. Answer of company received. Ordered copy sent complainants.

I. Eugene Williams against the Buffalo, Rochester and Pittsburg Railroad Company, letter received from complainant stating that the company had not boarded up the shed as agreed. Letter written company as shown by copy on file.

B. K. White against the Poughkeepsie and Eastern Railroad Company, asking that they be required to drain a parcel of land alleged to have been flooded through the company's neglect, etc. Answer of the company received. Ordered copy sent complainant.

Hudson P. Rose against the Union Railroad Company, relative to alleged excessive fare. Ordered copy be sent the company.

Applications.

Application of the Fulton Chain Railroad Company for a certificate under section 59 of the Railroad Law. Ordered hearing set down at Albany, 2 p. m., Monday, March 9, and notice ordered published.

Orders.

Watkins and Havana Railroad Company for a certificate under section 59 of the Railroad Law. Ordered granted.

Recess until 10 a. m., Tuesday, February 25.

ALBANY, FEBRUARY 25, 1896.

The Board met at 10 a. m. Present, Commissioners Beardsley, Rickard and Chapin.

A verbal communication was received from Hon. S. Fred. Nixon, Chairman Assembly Railroad Committee, asking for the opinion of the Board on Assembly Bill P. No. 55, relative to running trains on elevated railroads at night. The opinion of the Board was given as shown by letter on file.

The Board adjourned.

NUNDA, FEBRUARY 27, 1896.

The Board met pursuant to adjournment. Present, Commissioners Beardsley and Rickard.

The minutes of the last meeting were read and approved.

Hearings.

Residents of Nunda against the Western New York and Pennsylvania Railroad Company, asking that a freight station be established in that village. F. C. Peck, counsel for petitioners; no one appeared for the company. After hearing evidence, the hearing was adjourned until Monday, March 9, 2 p. m., at Albany, at the request of Frank Rumsey, counsel for the company, made by letter.

The Board adjourned.

NEW YORK, MARCH 4, 1896.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

Application of the Empire City Traction Company for a certificate under section 59 of the Railroad Law. W. H. Page, Jr., of Hoadly, Lauterbach & Johnson, for the application; H. A. Robinson, counsel, and B. F. Romaine, counsel for property-owners on Ninety-seventh street, New York city, in opposition. The Board announced its decision, refusing the certificate, without prejudice to a renewal of the application, and filed a memorandum. See papers on file.

Complaints.

E. D. Northrup against the Buffalo, Rochester and Pittsburg Railroad Company, as to train connections at Salamanca, Little Valley, etc. Letter received from complainant. Ordered that letter be written the company, asking if they are complying with the recommendations made by the Inspector and adopted by the Board.

I. Eugene Williams against the Buffalo, Rochester and Pittsburg Railroad Company, relative to station. Letter received from the company, stating that a covered shelter will be erected at Riceville.

B. K. White against the Poughkeepsie and Eastern Railroad Company, relative to a culvert, and the flooding of his land. Reply of complainant to answer of company. Letter sent complainant as shown by copy on file, dated March 2, 1896.

Theodore S. Jenkins and others against the Prospect Park and Coney Island Railroad Company. Letter received from the company, stating that the recommendations of the Board will be complied with, commencing March 2. Copy sent complainants.

Miscellaneous.

Report of Inspector on accident occurring on the New York Central and Hudson River Railroad at Amsterdam, February 26. Received and referred back for additional information.

Report of Inspector on accident occurring on the New York Central and Hudson River Railroad near Fairport, February 12, with communication from Edgar Van Etten, Superintendent, in relation thereto. Received and placed on file.

Letter from Edgar B. Jewett, Mayor of Buffalo, relative to the charters of the Buffalo street railroad companies. Ordered answer be sent as shown by copy on file.

Letter from Ely & Dudley, asking extension of time in which to file brief, in the matter of the application of the Niagara Falls Street Railroad Company for a certificate under section 59 of the Railroad Law. Extension granted and both sides notified.

Applications of the Oswego Street Railway Company and the Fulton and Oswego Falls Railway Company for approval of increase of capital stock from \$125,000 to \$200,000 and from \$15,000 to \$100,000 respectively. Certificates granted October 15, 1895, and December 23, 1895, were ordered canceled, and above applications granted.

Orders.

Fulton and Oswego Falls and Oswego Street Railroad Companies, increase of stock from \$15,000 to \$100,000 respectively. Granted.

Empire City Traction Company, for a certificate under section 59 of the Railroad Law. Ordered denied without prejudice to renewal.

The Board adjourned.

NEW YORK, MARCH 5, 1896.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

Hearings.

Application of the Tarrytown Electric Railway Company for a certificate under section 59 of the Railroad Law. Roberts Sewell, for the applicant; F. B. Millard, attorney for the village of Tarrytown, appeared and stated that the village would make no further opposition, as it had granted a franchise to another company. The Board reserved decision.

The Board adjourned.

NEW YORK, MARCH 6, 1896.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

Hearings.

James F. Secor, Jr., and others against the New York, New Haven and Hartford Railroad Company, alleging lack of toilet conveniences in the cars on the Harlem River and Portchester branch. O. H. Platt, General Superintendent, and O. M. Shepard, Division Superintendent, New York division, appeared for the company; no one appeared for complainants. The Board reserved decision.

In the matter of an accident on the Lexington Avenue Cable Railroad, between One Hundred and Second and One Hundred and Third streets, New York city. H. H. Vreeland, President of the Metropolitan Street Railway, the owner of the Lexington avenue road, appeared and explained the cause of the accident.

The Board adjourned.

ALBANY, MARCH 9, 1896.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the meetings of March 4, 5 and 6 were read and approved.

Hearings.

Application of the Albany, Helderberg and Schoharie Electric Railway Company, for a certificate under section 59 of the Railroad Law. Appearances as on February 24. After taking further evidence, the evidence and hearing was closed and the case was submitted.

Application of the Fulton Chain Railroad Company for a certificate under section 59 of the Railroad Law. Hadley, Jones and Charles E. Snyder, counsel for the application. No one appeared in opposition. After hearing evidence and affidavits, the Board ordered that the application be granted.

Residents of Nunda against the Western New York and Pennsylvania Railroad Company, asking that a freight station be established in the village of Nunda. William Rumsey, General Solicitor of the company, appeared. After hearing argument by Mr. Rumsey, he said he would confer with complainants as to agreeing upon a freight service at the village of Nunda.

Complaints.

George L. Carlisle against the New York, New Haven and Hartford Railroad Company, alleging that trains on the Harlem River and Portchester branch of that railroad are only run to New Rochelle instead of to Portchester, as the charter of the company is said to require. Complaint submitted

to the Board, and answer of the company received. Ordered copy of answer be sent complainant.

H. D. Northrup against the Buffalo, Rochester and Pittsburg Railroad Company, relative to trains not connecting at Salamanca, Little Valley, etc. Ordered that the company be cited to appear before the Board at its meeting, Monday, March 16.

Orders.

Fulton Chain Railroad Company for a certificate under section 59 of the Railroad Law. Ordered granted.

Bills.

The following bills were approved:

National Press Intelligence Company.....	\$5 05
American Express Company.....	5 34
National Express Company.....	2 48
C. R. DeFreest, expense bill.....	35 50
	<hr/>
	\$48 37
	<hr/>

The Board adjourned until Monday, March 16, 1896, 2 p. m.

ALBANY, MARCH 16, 1896.

The Board met pursuant to adjournment. Present, Commissioners **Beardsley**, **Rickard** and **Chapin**.

The minutes of the last meeting were read and approved.

Hearings.

H. D. Northrup against the Buffalo, Rochester and Pittsburg Railroad Company, complaining of lack of train connections at Salamanca with the Erie Railroad. **J. S. Havens**, counsel, and **S. B. Griswold** for the Buffalo, Rochester and Pittsburg Railroad Company; **D. I. Roberts**, representing the Erie Railroad Company; the complainant appeared by a brief filed with the Board. After hearing arguments on behalf of the Buffalo, Rochester and Pittsburg Railroad Company, it was agreed by said last-named company that it would take passengers on the 7 o'clock p. m. freight train north from Salamanca Junction to Ashford and intermediate stations. Efforts will also be made by the Buffalo, Rochester and Pittsburg Railroad Company and the Erie Railroad Company to make better connections at Salamanca.

Complaints.

Hudson P. Rose against the Union Railway Company of New York city, alleging the charging of excessive fare. Letter received from **Hoadly**, **Lauterbach & Johnson**, counsel for the company, asking for a further extension of twenty days in which to answer, owing to press of business. Time was extended until April 1.

A letter was received from **F. R. March**, counsel **Lewiston** and **Youngstown Frontier Railway Company**, relative to proposed change of route of said company. Ordered that letter be written in answer, as shown by copy on file.

Applications.

Application of the **Irondequoit and Lake Shore Electric Railroad Company**, for a certificate under section 59 of the Railroad Law. Ordered hear-

ing set down for Monday, April 6, 2 p. m., at Albany, and notice of hearing be advertised.

Report of the Inspector on accident happening at Amsterdam, on the New York Central and Hudson River Railroad, February 26, 1896. Adopted and ordered issued.

Orders.

Application of the Albany, Helderberg and Schoharie Electric Railway Company for a certificate under section 59 of the Railroad Law. Granted.

James F. Secor, Jr., against the New York, New Haven and Hartford Railroad Company, complaining that the cars on the Harlem River and Portchester branch of that railroad are not furnished with toilet facilities. The Board recommends that at least one passenger coach on each train on the Harlem River and Portchester branch of the New York, New Haven and Hartford Railroad Company be furnished with water-closets.

The Board adjourned until Tuesday, March 24, 10 a. m., at the Hoffman House, New York city.

NEW YORK, MARCH 24, 1896.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

Application of the Albany Railway for approval of an increase of capital stock from \$1,500,000 to \$2,000,000. S. W. Rosendale, counsel, appeared for the company, and submitted the papers. The evidence of E. S. Fassett, Assistant General Manager of the road, was taken as to the purposes to which the proposed increase is to be devoted. Ordered approved.

Complaints.

E. D. Northrup against the Buffalo, Rochester and Pittsburg Railroad Company, relative to non-connection of trains at Salamanca. Letter from complainant received. Ordered filed.

Applications.

Application of the Columbia County Electric Railway Company for a certificate under section 59 of the Railroad Law. At the request of the petitioner, hearing was ordered set down for some time in May, date to be fixed hereafter.

Orders.

Application of the Albany Railway for approval of an increase of capital stock from \$1,500,000 to \$2,000,000. Ordered granted.

Application of the Syracuse and Onondaga Lake Electric Railway Company for approval of an increase of capital stock from \$300,000 to \$500,000. Ordered granted.

The Board adjourned.

BROOKLYN, MARCH 31, 1896.

The Board met pursuant to adjournment, at the Common Council Chamber. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

Application of the Brooklyn Bridge, Prospect Park and Eastern Railroad Company for a certificate under section 59 of the Railroad Law. C. A. Collin, of Sheehan & Collin, counsel for applicant, appeared; J. C. Church, counsel for railroad, in opposition, appeared. The hearing was adjourned by agreement to May 5, 11 a. m., at Brooklyn.

NEW YORK, MARCH 31, 1896.

The Board met at the Chamber of Commerce at 2 p. m. Present, Commissioners Beardsley, Rickard and Chapin.

Hearings.

Hudson P. Rose against the Union Railway Company of New York, alleging the charging of excessive fare. The complainant appeared in person; W. H. Page, Jr., of Hoadly, Lauterbach & Johnson, appeared for the company. After hearing arguments, the complaint was ordered dismissed on the ground that chapter 934 of the Laws of 1895, relative to the acquirement by the city of New York of certain territory, had not the effect of reducing fares on street surface railroads within the territory so acquired.

Complaints.

Residents of Nunda against the Western New York and Pennsylvania Railroad Company, asking for freight facilities in the village of Nunda. Copies of correspondence between the residents and the company were received, together with a letter from the residents, asking that the Board take action in the matter. Ordered that the Board recommend that the company receive and deliver freight at its station in the village of Nunda.

H. A. Barnum, of Blinghamton, against the Delaware, Lackawanna and Western Railroad Company, relative to its method of issuing mileage books. Circular received from company, in response to request of Board, setting forth its rules in the matter. Ordered that the papers in the case be transmitted to the Attorney-General for his consideration and action.

Applications.

Application of Christian M. Meyer and others, asking that the Board approve of a change of name of the station on the Long Island Railroad at Newtown from Newtown to Elmhurst. Ordered letter be written, stating that the Board has no jurisdiction in the matter.

Orders.

Hudson P. Rose against the Union Railway Company of New York. Dismissed.

Residents of Nunda against the Western New York and Pennsylvania Railroad Company. Recommendation as shown by copy on file.

H. A. Barnum against the Delaware, Lackawanna and Western Railroad Company. Ordered papers transmitted to the Attorney-General for his consideration and action.

Application of Tarrytown Electric Railway Company for a certificate under section 59 of the Railroad Law. Ordered refused.

The Board adjourned until April 1, 10 a. m., at the Hoffman House, New York city.

NEW YORK, APRIL 1, 1896.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The matter of the accident on the elevated railroad, March 21, near One Hundred and Ninth street and Ninth avenue, was taken up for consideration, and the report of the company relative thereto was presented. The report was not deemed complete in detail, and the matter was referred to Commissioner Rickard for further investigation.

The matter of the collision of cable cars on the Metropolitan Street Railway, at Fifty-third street and Seventh avenue, March 31, was considered, and Commissioner Rickard was authorized to ascertain what method of signals are in use at the point of collision to prevent accidents, and to recommend to the Board what, if any change, should be made, in the interest of public safety.

The Board adjourned.

ALBANY, APRIL 6, 1896.

The Board met pursuant to adjournment. Present, Commissioners Rickard and Chapin. Commissioner Beardsley absent on account of illness. The minutes of the last meeting were read and approved.

Hearings.

Application of the Watkins and Havana Railroad Company for approval of the Board of an increase of capital stock from \$50,000 to \$300,000. Boyd McDowell, attorney for the company, appeared and presented the application. Decision reserved.

Application of the Watkins and Havana Railroad Company for the approval of petition and designation of newspapers within which shall be published notice of presentation of petition to the court for leave to change its name to the Elmira and Seneca Lake Railway Company. Boyd McDowell, counsel, appeared for the company. Ordered that the petition be approved and that the *Watkins Democrat* and the *Evening Star*, of Elmira, be designated as the papers in which to publish the notice.

Application of the Irondequoit and Lake Shore Electric Railway Company for a certificate under section 59 of the Railroad Law. J. P. Bowman, counsel for the company, appeared and presented affidavits in the matter. No one appeared in opposition. Decision reserved pending proof as to the good faith and ability of the projectors of the road to build it.

Applications.

Application of the Lewiston and Youngstown Frontier Railway Company for consent to change its route, under section 59 of the Railroad Law. Ordered hearing set down for Monday, April 20, 2 p. m., at Albany, and notice be advertised.

The report of the Inspector on his inspection of the Manhattan Railway lines received, and copy ordered sent to the company.

Orders.

Application of the Watkins and Havana Railroad Company for the approval of petition and designation of newspapers within which shall be published notice of presentation of petition to the court for leave to change its name to the Elmira and Seneca Lake Railway Company. Ordered that the petition be approved and that the *Watkins Democrat* and the *Evening Star*, of Elmira, be designated as the papers in which to publish the notice.

Bills.

The following bills were approved:

National Express Company.....	\$2 40
American Express Company.....	6 50
Western Union Telegraph Company.....	1 86
Western Union Telegraph Company.....	2 31
Postal Telegraph Cable Company.....	7 80
Postal Telegraph Cable Company.....	6 28
Hudson River Telephone Company.....	30 34
Hudson River Telephone Company.....	23 29
Hudson River Telephone Company.....	15 19
Stuart G. Spier.....	3 08
A. W. Smith.....	4 07
G. M. Davis.....	4 50
Weed-Parsons Printing Company.....	99 03
Charles R. DeFreest.....	30 25
	<hr/>
	\$236 90

Adjourned until April 20, 2 p. m., at Albany. The meeting was subsequently adjourned until Tuesday, April 21, 2 p. m.

ALBANY, APRIL 21, 1896.

The Board met pursuant to adjournment. Present, Commissioners Rickard and Chapin. Commissioner Beardsley absent on account of illness. The minutes of the last meeting were read and approved.

Complaints.

C. B. McNair against the Dansville and Mount Morris Railroad Company, relative to lack of fences along his property. Letter received from complainant. Ordered copy sent company.

Alfred Gray against the New York Central and Hudson River Railroad Company and West Shore Railroad, relative to rate on bananas from New York to Ilion. Ordered copy of complaint be sent company.

Applications.

Application of the Ballston Terminal Railroad Company for a certificate under section 59 of the Railroad Law. Ordered that hearing be set down for Tuesday, May 12, 2 p. m., at Albany.

Application of the Plattsburgh Traction Company for a certificate under section 59 of the Railroad Law. Ordered hearing set down for Tuesday, May 12, 2 p. m., at Albany.

Application of the Mountain Lake Electric Railroad Company for a certificate under section 59 of the Railroad Law. Ordered hearing set down for Tuesday, May 12, 2 p. m., at Albany.

The report of the Inspector of his inspection of the following railroads were submitted to the Board, and copies sent the companies, with a letter making the recommendations of the Inspector those of the Board.

Staten Island Rapid Transit Railroad, New York, New Haven and Hartford Railroad, Long Island Railroad, New Jersey and New York Railroad, New York and Sea Beach Railroad, Brooklyn and Brighton Beach Railroad and Sea View Railroad.

The application of the Lewiston and Youngstown Frontier Railroad Company, under section 59 of the Railroad Law, for a change of route, was withdrawn.

Orders.

Application of the Watkins and Havana Railroad Company for an increase of capital stock from \$50,000 to \$300,000. Ordered granted.

Application of the Irondequoit and Lake Shore Electric Railroad Company for a certificate under section 59 of the Railroad Law. Ordered granted.

Commissioner Rickard presented a report in the matter of the accident on the Ninth avenue line of the Manhattan Railway, near One Hundred and Ninth street, March 21, 1896. The report was received, read, adopted and ordered issued.

The Board adjourned.

BROOKLYN, MAY 5, 1896.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

Application of the Brooklyn Bridge, Prospect Park and Eastern Railroad Company for a certificate under section 59 of the Railroad Law. Sheehan & Collin (Mr. Collin appearing) for the applicant; James C. Church, counsel for railroad, in opposition; F. D. Bellamy, James McKeen, W. B. Hill and John R. Kuhn, counsel for property-owners, in opposition. The applicant rested its case except in so far as the Board may require proof of the *bona fides* of the application. Hearing adjourned until Tuesday, May 26, at the Common Council Chamber, Brooklyn, 11 a. m.

The Board took a recess until May 6, 1896, at the Chamber of Commerce, New York city, 11 a. m.

NEW YORK, MAY 6, 1896.

The Board met at the Chamber of Commerce at 11 a. m. Present, Commissioners Beardsley, Rickard and Chapin.

Hearings.

Application of the Pecksport Connecting Railway Company for a certificate under section 59 of the Railroad Law. W. F. Dunning, counsel for the application; no one in opposition. After the filing of papers by the applicant and hearing the evidence of J. E. Childs, the application was ordered granted.

Complaints.

Alfred Gray against the New York Central and Hudson River and West Shore Railroads, relative to rate on bananas from New York to Illon. Answer of the company received. Copy ordered sent complainant.

E. M. Carroll and others against the Erie Railroad Company, as operator of the Nyack and Northern Railroad, relative to alleged dangerous condition of a portion of its track. Complaint and report of the Inspector on the same received. Ordered a copy of the report of the Inspector be sent the Erie Railroad Company, with a letter stating that his recommendations are made the recommendations of the Board; also, that a copy of the report and the letter of the Board be sent complainants.

W. H. Farr, of Big Flats, N. Y., against the Erie Railroad Company, complaining as to condition of the fences along his farm. Ordered copy sent the company.

Louis H. Gein, of Van Courtlandt, N. Y., against the New York and Putnam division of the New York Central and Hudson River Railroad Company, relative to commutation rates. Complaint and answer of the company received. Ordered copy of answer be sent complainant.

O. Mathews against the Prospect Park and Coney Island Railroad Company, relative to alleged dangerous manner in which a portion of the road was operated on Sunday, April 19. Copy ordered sent the company.

Hart Douglass, of Batavia, against the Erie Railroad Company, relative to condition of fences along his farm, and the filling of a cattle-guard. Ordered copy sent the company.

Applications.

Application of the Catskill, Calro and Windham Street Railroad Company for a certificate under section 59 of the Railroad Law. Ordered hearing set down for Monday, May 11, 2 p. m., at Albany, and notice of hearing be advertised.

Application of the Chittenango and White Sulphur Springs Railway Company, for a certificate under section 59 of the Railroad Law. Ordered hearing be set down for Monday, May 11, 2 p. m., and notice of hearing be advertised.

Application of the Cohoes City Railway Company for approval of the increase of its capital stock from \$50,000 to \$70,000. Ordered approved.

Inspections.

The reports of the Inspector of his inspections of the following railroads were submitted to the Board, and copies ordered sent the companies, with letter making the recommendations of the Inspector those of the Board: Poughkeepsie and Eastern Railroad, Brooklyn, Bath and West End Railroad and Boston and Albany Railroad.

Bills.

The following bills were approved:

Wm. H. Terrell.....	\$5 00
James B. Lyon.....	2 00
<i>Railroad Gazette</i>	4 20
Street Railway Publishing Company.....	4 00
A. M. Michael.....	75
P. J. Doyle.....	15 00
National Press Intelligence Company.....	1 85
Westcott Express Company.....	31 20
John A. Heenan.....	10 25
	<hr/>
	\$74 25

Special Printing, Annual Report.

Wynkoop Hallenbeck Crawford Co.....	2,500 00
	<hr/>
	\$2,574 25
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Orders.

Application of the Pecksport Connecting Railway Company for a certificate under section 59 of the Railroad Law. Ordered granted.

Application of the Cohoes City Railway Company for approval of the increase of its capital stock from \$50,000 to \$70,000. Ordered approved.

The Board adjourned.

ALBANY, MAY 11, 1896.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

Application of the Chittenango and White Sulphur Springs Railway Company for a certificate under section 59 of the Railroad Law. William Sutphen, counsel for the application; no one in opposition. After hearing Mr. Sutphen and filing affidavits in favor of the application, it was ordered granted.

Application of the Catskill, Cairo and Windham Street Railroad Company for a certificate under section 59 of the Railroad Law. J. & W. O. Courtney for the application; Jennings & Chase, attorneys Catskill Mountain Railroad Company, in opposition. Hearing adjourned until Tuesday, June 9, 10 a. m., at Catskill.

Complaints.

W. H. Farr against the Erie Railroad Company, relative to condition of fences near Big Flats. Letter was received from the company, stating that the necessary repairs to the fences referred to had been ordered. Copy of letter ordered transmitted to complainant.

Hart Douglass against the Erie Railroad Company, relative to the condition of fences near Batavia. Answer of company received and ordered transmitted to the complainant.

Complaint of Addison H. Brown, as to the alleged dangerous condition of the Jamestown and Lake Erie Railway. The Inspector was ordered to make an immediate inspection of the railroad and report to the Board.

Louis H. Gein against the New York and Putnam division of the New York Central and Hudson River Railroad, relative to commutation fares. Ordered complaint dismissed, for reasons shown by memorandum.

Alfred Gray against the New York Central and Hudson River and West Shore Railroads, as to rate on bananas from New York to Illon. Ordered complaint dismissed, for reasons shown by memorandum.

Applications.

Application of the Utica Suburban Railway Company for a certificate under section 59 of the Railroad Law. Ordered hearing set down for Tuesday, May 19, 11 a. m., Hoffman House, New York city.

Application of W. H. Dudley, auditor New England Railroad Company, for an extension of time of five days for filing quarterly report. Application granted.

Application of the Kingston and Lake Katrine Railway Company for a certificate under section 59 of the Railroad Law. Ordered hearing set down for May 27, 11 a. m., Chamber of Commerce, New York city, and notice be advertised.

The report of the assistant accountant of an examination of the freight accounts of the Delaware and Hudson Canal Company at the Green Island station, as compared with other stations of said company, made at the request of the Attorney-General, was received and ordered transmitted to the Attorney-General.

Orders.

Chittenango and White Sulphur Springs Railway Company for a certificate under section 59 of the Railroad Law. Granted.

Louis H. Gein against the New York Central and Hudson River Railroad Company (New York and Putnam division). Complaint dismissed, as shown by memorandum on file.

Alfred Gray against the New York Central and Hudson River and West Shore Railroad Companies. Complaint dismissed as shown by memorandum on file.

Bills.

The following bills were approved:

Charles R. DeFreest.....	\$20 35
American Express Company.....	114 15
American Express Company.....	91 98
National Express Company.....	72 10
Postal Telegraph Cable Company.....	8 31
Hudson River Telegraph Company.....	10 54
F. K. Baxter.....	60 50
James B. Lyon.....	2 00
Weed-Parsons Printing Company.....	12 75
Western Union Telegraph Company.....	1 76
Albert L. Judson.....	30 00
E. C. McEntee.....	50 15
Harry A. Chase.....	4 80
Margaret E. Templeton.....	9 68
S. A. Beardsley.....	45 00
William McNeilly, postage.....	50 00
Rodgers, Ruso & Kelly.....	16 95
	<hr/>
	\$601 02

The Board adjourned until 10 a. m. Tuesday, May 12, 10 a. m.

ALBANY, MAY 12, 1896.

The Board met at 10 a. m. Present, Commissioners Beardsley, Rickard and Chapin.

Commissioner Rickard submitted a report in the matter of an accident at Wallington, December 19, 1895. Adopted and ordered issued.

The Board took a recess until 2 p. m.

ALBANY, MAY 12, 2 P. M.

The Board met at 2 p. m. Present, Commissioners Beardsley, Rickard and Chapin.

Hearings.

Application of the Plattsburgh Traction Company for a certificate under section 59 of the Railroad Law. H. E. Barnard, counsel for the application; no one appeared in opposition. Application ordered granted.

Application of the Mountain Lake Electric Railroad Company for a certificate under section 59 of the Railroad Law. W. A. McDonald, counsel, for application; no one in opposition. Application ordered granted.

Application of the Ballston Terminal Railroad Company for a certificate under section 59 of the Railroad Law. J. S. L'Amoreaux, counsel for the application; John H. Burke, counsel for the Ballston Electric Railway Company, in opposition. Certificate ordered granted.

Orders.

Plattsburgh Traction Company for a certificate under section 59 of the Railroad Law. Granted.

Mountain Lake Electric Railroad Company, for a certificate under section 59 of the Railroad Law. Granted.

The Ballston Terminal Railroad Company, for a certificate under section 59 of the Railroad Law. Granted.

The Board adjourned.

NEW YORK, MAY 19, 1896.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

The hearing in the matter of the application of the Utica Suburban Railway Company for a certificate under section 59 of the Railroad Law, was adjourned until 10 a. m. Wednesday, May 20, at the request of the counsel for the company, John W. Boyle.

Complaints.

Addison H. Brown against the Jamestown and Lake Erie Railway Company, alleging dangerous condition of that railroad. The report of the Inspector of his inspection of the railroad was laid before the Board and copy sent the company, with a letter making the recommendations of the Inspector the recommendations of the Board, the speed to be limited to 10 miles an hour until repairs are completed. Letter received from company, stating it will comply with recommendations.

Ryder, Lefevre & Co. against the Delaware and Hudson Canal Company, alleging excessive rates on freight shipped from Albany to Cobleskill, which freight reaches Albany by boat. Copy sent the company.

Hart Douglass against the Erie Railroad Company, relative to condition of fences near Batavia. Reply of complainant to answer of company. Ordered copy be sent company.

E. D. Northrup against the Buffalo, Rochester and Pittsburg Railroad Company, relative to train connections at Salamanca. Communication from company sent complainant.

Applications.

Application of the Lewiston and Youngstown Frontier Railway Company for approval of an increase of capital stock from \$60,000 to \$150,000. Ordered granted.

Application of the Auburn City Railway Company for approval of an increase of capital stock from \$250,000 to \$300,000. Ordered granted.

Orders.

Lewiston and Youngstown Frontier Railway Company, for approval of an increase of capital stock from \$60,000 to \$150,000. Granted.

Auburn City Railway Company, for approval of an increase of capital stock from \$250,000 to \$300,000. Granted.

The bill of the National Railway Publication Company, five dollars, was approved.

The Board adjourned until 10 a. m., Wednesday, May 20, at New York city.

NEW YORK, MAY 20, 1896.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

Hearings.

Application of the Utica Suburban Railway Company for a certificate under section 59 of the Railroad Law. John W. Boyle, counsel for the application; no one in opposition. Ordered granted.

Orders.

Utica Suburban Railway Company for a certificate under section 59 of the Railroad Law. Granted.

The Board adjourned.

BROOKLYN, MAY 26, 1896.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

Application of the Brooklyn Bridge, Prospect Park and Eastern Railroad Company for a certificate under section 59 of the Railroad Law. Sheehan & Collin for applicant (Mr. Collin appearing); James C. Church for railroad in opposition (Chas. Church, Jr., appearing); James McKeen and W. B. Hill, for property-owners on Hicks street, in opposition. After hearing evidence on the part of the property-owners on Hicks street in opposition, the hearing was adjourned until Tuesday, June 16, 11 a. m., Common Council Chamber, City Hall, Brooklyn, at the request of Mr. James C. Church, who was ill.

Applications.

Application of the Patchogue and Port Jefferson Traction Company for a certificate under section 59 of the Railroad Law. Ordered hearing be set down for Tuesday, June 2, 1896, 11 a. m., at the Chamber of Commerce, New York city, and notice be advertised.

Application of the Great Neck and Port Washington Railroad Company for a certificate under section 59 of the Railroad Law. Ordered hearing be set down for Tuesday, June 2, 1896, 11 a. m., at the Chamber of Commerce, New York city, and notice be advertised.

The Board adjourned.

NEW YORK, MAY 27, 1896.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

Hearings.

Application of the Kingston and Lake Katrine Railway Company for a certificate under section 59 of the Railroad Law. Frank White, counsel for the application; no one in opposition. The matter was adjourned until Wednesday, June 10, 10 a. m., at Lake Katrine station.

Applications.

Application of the Upper Hudson Railroad Company for a certificate under section 59 of the Railroad Law. Ordered hearing be set down for Monday, June 29, 1896, 2 p. m., at Albany, and notice be advertised.

Application of the Jamestown and Lake Erie Railway Company for approval of an increase of its capital stock from \$250,000 to \$350,000. Simpson, Thatcher & Barnum, attorneys, for the application. The Board took the papers and reserved decision.

Application of the Ballston Terminal Railroad Company for approval of the use of overhead trolley system of electricity as motive power on its railroad, under section 100 of the Railroad Law. Ordered approval granted.

Complaints.

E. M. Carroll against the Erie Railroad Company, relative to alleged dangerous condition of portion of roadbed on the Nyack and Northern branch. Letter received from complainant. Referred to Inspector.

Benjamin Sanders, commissioner of highways, town of Marcy, against the New York Central and Hudson River Railroad Company, lessee of the Rome, Watertown and Ogdensburg Railroad, relative to a bridge at Marcy station. Copy sent the company.

Addison H. Brown against the Jamestown and Lake Erie Railroad Company, relative to alleged dangerous condition of the road. Letter received from the company, stating the repairs that are being made, etc. Answered as shown by letter on file.

O. Mathews against the Prospect Park and Coney Island Railroad Company, relative to alleged dangerous operation of trains on Sunday, April 19. Answer of the company received. Copy sent complainant.

Letter of Alfred Gray. Ordered filed.

Inspections.

Report of the Inspector of his inspection of the Port Jervis, Monticello and New York Railroad. The Board took the matter up, with representatives of the company, in executive session.

Orders.

Ballston Terminal Railroad Company, for approval of the use of the overhead trolley system as motive power. Granted.

The Board adjourned.

NEW YORK, JUNE 2, 1896.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last two meetings were read and approved.

Hearings.

Application of the Patchogue and Port Jefferson Traction Company for a certificate under section 59 of the Railroad Law. Robert S. Pelletreau, counsel for the application; George L. Robinson, counsel, appeared in opposition to that portion of the route on Ocean avenue in the village of Patchogue. After hearing evidence, ordered that a certificate be granted, and that there be a provision in the recital that the Board does not pass upon the question of the grade crossings by this railroad of the Long Island Railroad.

Application of the Great Neck and Port Washington Railroad Company for a certificate under section 59 of the Railroad Law. ——— Gardiner, counsel for the application; no one in opposition. After hearing evidence, ordered that application be granted.

O. Mathews against the Prospect Park and Coney Island Railroad Company, relative to alleged dangerous operation of trains, on April 19. O. Mathews appeared as complainant; A. A. Gardiner appeared for the company. After hearing evidence the Board reserved its decision.

Complaints.

Hart Douglass, of Batavia, against the Erie Railroad Company, as to condition of fences along his land. Letter received from company in relation to the matter; also, letter from complainant. The Inspector was ordered to inspect the condition of the fences at the point in question.

Frank Enos against the West Shore Railroad Company, relative to rates of fare. Ordered copy sent the company.

Residents of Purdy's Station against the New York, Ontario and Western Railway Company, asking that two trains a day stop at that station. Copy sent the company.

E. M. Carroll against the Erie Railroad Company, relative to alleged dangerous condition of a portion of the roadbed of the Nyack and Northern branch. Letter received from company, stating that the company will erect a retaining wall at the place in question. Letter sent Mr. Carroll, asking if the work is not begun within a reasonable time to notify the Board.

Applications.

Application of the Jamestown and Lake Erie Railway Company for increase of capital stock from \$250,000 to \$350,000. An additional affidavit, by William M. Barnum, was submitted. Ordered application approved.

Application of the Lehigh and Lake Erie Railroad Company for a certificate under section 59 of the Railroad Law. Ordered hearing be set down for Monday, June 29, 2 p. m., at Albany, and notice be advertised.

Orders.

Patchogue and Port Jefferson Traction Company, for a certificate under section 59 of the Railroad Law. Granted.

Great Neck and Port Washington Railroad Company, for a certificate under section 59 of the Railroad Law. Granted.

Jamestown and Lake Erie Railway Company, for approval of increase of capital stock from \$250,000 to \$350,000. Approved.

Bills.

The following bills were approved:

Stuart G. Speir.....	\$1 00
Frank K. Baxter.....	21 75
E. C. McEntee.....	28 90
	<hr/>
	\$51 65

The Board adjourned.

CATSKILL, JUNE 11, 1896.

The Board met at 9 a. m. Present, Commissioners Beardsley, Rickard and Chapin, and drove over the proposed route of the Catskill, Cairo and Windham Railroad Company. Returning over the railroad of the Catskill Mountain Railway Company.

Hearings.

At 3 p. m. the Board met, and gave a further hearing in the matter of the application of the Catskill, Cairo and Windham Street Railroad Company for a certificate under section 59 of the Railroad Law. J. & W. C. Courtney, counsel for the application; Jennings & Chase, counsel for the Catskill Mountain Railway Company, in opposition. After hearing evidence, the hearing was adjourned until June 29, 2 p. m., at Albany.

The Board met at the Prospect House at 8 p. m. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of June 2 were read and approved.

Complaints.

Thomas G. Dean against the New York Central and Hudson River Railroad Company, complaining against the practice on said railroad in making flying switches in the yard of the Grand Central depot, New York city. Ordered copy sent the company.

Benjamin Sanders, highway commissioner, town of Marcy, against the New York Central and Hudson River Railroad Company (Rome, Watertown and Ogdensburg division), relative to height of highway bridge. Answer of the company received. Copy sent complainant.

Hart Douglass, of Batavia, against the Erie Railroad Company, relative to condition of fences, and relative to closing of cattle pass. Report of Inspector received. Ordered that the recommendations of the Inspector be made the recommendations of the Board.

E. M. Carroll against the Erie Railroad Company, relative to alleged dangerous condition of a portion of the track of the Nyack and Northern branch, near Piermont-on-the-Hill. Letter from Mr. Carroll in regard to the same. Letters sent Mr. Carroll and the company, as shown by copies on file.

Applications.

Application of the Syracuse Rapid Transit Railway Company for a certificate under section 59 of the Railroad Law. Hearing set down for June 17, 11 a. m., Chamber of Commerce, New York city, and notices ordered advertised.

Inspections.

The Secretary submitted a report of a supplemental inspection of the Port Jervis, Monticello and New York Railroad.

The following reports of inspections of railroads were submitted to the Board and action taken, as shown by letters on file: Newburgh, Dutchess and Connecticut Railroad, New York, Susquehanna and Western Railroad, Philadelphia, Reading and New England Railroad and Sterling Mountain Railroad.

Bills.

The following bills were approved:

American Express Company.....	\$42 20
National Express Company.....	34 62
Weed-Parsons Printing Company.....	32 00
Francis H. Woods.....	1 34
George W. McClellan.....	5 00
Western Union Telegraph Company.....	2 67
	<hr/>
	\$117 83
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Commissioner Rickard submitted a report in the matter of the explosion of the boiler of locomotive No. 4, on the Delaware, Lackawanna and West-

ern Railroad, about three miles south of Richfield Junction, on February 19, 1896. Adopted and ordered issued.

The Board adjourned.

LAKE KATRINE STATION, JUNE 12, 1896.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

In the matter of the application of the Kingston and Lake Katrine Railway Company, for a certificate under section 59 of the Railroad Law, the Board inspected the proposed route of the company. F. L. Westbrook, representing the New York Central and Hudson River Railroad Company and property-owners, entered an appearance in opposition to the application; George X. Van Etten, representing property-owners on Liberty street, entered an appearance in opposition to the application. It was ordered that an adjourned hearing be held at Albany, June 30, 10 a. m.

The Board adjourned.

BROOKLYN, JUNE 16, 1896.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meetings, June 11 and 12, were read and approved.

Hearings.

Application of the Brooklyn Bridge, Prospect Park and Eastern Railroad Company for a certificate under section 59 of the Railroad Law. Sheehan & Collin (James L. Wells appearing), for the applicant; James C. Church, counsel for railroad, in opposition; F. D. Bellamy, James McKeen, W. B. Hill, John R. Kuhn and Alexander Cameron, for property-owners, in opposition. After hearing further evidence, the evidence was closed. Briefs are to be filed by July 16, and a map is to be sent to the Board by the applicant and Mr. Church together, showing the situation of all the tracks and proposed routes of street railroads in Brooklyn.

Complaints.

Frederick G. Runde against the Prospect Park and Coney Island Railroad Company, relative to failure to get transportation from Kensington on a ticket he had bought, trains not stopping. Ordered sent the company.

Josiah S. Varney and others, of Dunham's Basin, Washington county, against the Delaware and Hudson Canal Company, asking that a flag station be restored at that point. Complaint sent company.

Frank Enos against the West Shore Railroad, relative to rate of fare between Fort Montgomery and West Englewood. Answer of the company received, and the matter appearing to be interstate commerce, the complaint was dismissed.

Residents of the village of Nunda against the Western New York and Pennsylvania Railroad Company. Letter received from William Craig, Chairman Citizens' Committee, stating that the recommendations of the Board have not been complied with by the company. Letter written company, asking if it intends to comply with such recommendations.

Hart Douglass, of Batavia, against the Erie Railroad Company, relative to condition of fences, and relative to closing of cattle pass. Letter received from company, stating that orders have been issued to comply with recommendations of Board. Copy of this letter was sent complainant, with request that if its promise is not fulfilled that he notify the Board.

Bills.

The following bills were approved:

Joseph T. Dunham & Company.....	\$14 89
Alfred L. Curtis, manager Tucker Letter and Document File Company.....	61 83
Sampson, Murdock & Co.....	3 00
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	\$79 72
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The Board adjourned.

BROOKLYN, JUNE 16, 1896.

The Board, at 8 p. m., attended the inquest on persons killed in the accident occurring to Car No. 719, June 7, on Thirty-ninth street, Brooklyn, on Nassau Electric Railroad.

NEW YORK, JUNE 17, 1896.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

Hearings.

George J. Grossman against the Manhattan Railway Company, asking that it be compelled to comply with the provisions of chapter 743, of the Laws of 1894, as to running through trains on the Suburban and Manhattan Elevated Railroads. Gumbleton & Hottenroth (Mr. Hottenroth appearing), for complainants; Julien T. Davies, for the company. After hearing arguments and evidence, the evidence was closed. Briefs to be filed by June 29 or 30.

Application of the Syracuse Rapid Transit Railway Company for a certificate under section 59 of the Railroad Law. Julien T. Davies, for the application; no one in opposition. Proof by affidavit is to be filed Monday, June 22, at Albany.

On motion,

Resolved, That the Secretary be and is hereby directed to notify the Accountant of this Board that from and after July 1, 1896, the salary of said Accountant will be at the rate of two thousand dollars (\$2,000) per annum, and that the Secretary notify the Comptroller of this action.

Adopted.

On motion,

Resolved, That the salary of E. C. McEntee, Stenographer of the Board, be increased to twenty-five hundred dollars (\$2,500) per annum, to take effect July 1, 1896, and that the Secretary notify the Comptroller of this action.

Adopted.

The Secretary informed the Board that he had designated E. C. McEntee to act as Assistant Secretary, in accordance with section 152 of the Railroad Law, the former appointment of John D. McMahon being revoked.

The Board adjourned.

ALBANY, JUNE 22, 1896.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meetings, June 16 and 17, were read and approved.

Hearings.

Application of the Syracuse Rapid Transit Railway Company for a certificate under section 59 of the Railroad Law. Adjourned hearing. Edward Cornell, of Davies, Stone & Auerbach, for the application; Joseph R. Swan, in behalf of a majority of the holders of the bonds of the People's Railway of Syracuse, and as trustee of the mortgage under which the bonds were issued, in opposition. Decision reserved.

Applications.

Application of the Plattsburgh Traction Company for the approval of the Board of the operation of its railroad by the overhead trolley electric system. Ordered granted.

Complaints.

Thomas G. Dean against the New York Central and Hudson River Railroad Company, complaining against the practice on that railroad of making flying switches in the yard of the Grand Central depot, New York city. Answer of the company received. Ordered letter written complainant, as shown by copy on file, dismissing complaint.

The following reports of inspections of railroads were submitted to the Board and action taken as shown by letters on file: Ulster and Delaware Railroad, Grand Trunk Railroad and Northern New York Railroad.

Orders.

Application of the Plattsburgh Traction Company for the approval of the Board of the operation of its railroad by the overhead trolley electric system. Granted.

Bills.

The following bills were approved:

E. C. McEntee (expenses).....	\$18 90
C. R. DeFreest (expenses).....	40 50
S. A. Beardsley (expenses).....	44 94
	<hr/>
	\$104 34

The Board adjourned.

ALBANY, JUNE 29, 1896.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

Application of the Upper Hudson Railroad Company for a certificate under section 59 of the Railroad Law. John B. Gleason, counsel for the application; no one in opposition. After hearing evidence, ordered that the certificate be granted.

Application of the Lehigh and Lake Erie Railroad Company for a certificate under section 59 of the Railroad Law. Wilson S. Bissell, counsel for the application; Hamilton Harris, for the New York Central and Hudson River Railroad Company and Terminal Railway of Buffalo, and George F.

Brownell, for the Erie Railroad Company, in opposition, appeared, and asked for an adjournment for opportunity to examine the papers, affidavits, etc., in support of the application presented by the applicant. Hearing adjourned until Wednesday, August 26, 2 p. m., at Albany.

Application of the Catskill, Calro and Windham Street Railroad Company for a certificate under section 59 of the Railroad Law. Adjourned hearing. J. & W. C. Courtney for the applicant; Jennings & Chase (Mr. Chase appearing), for the Catskill Mountain Railroad Company, in opposition. After hearing further evidence and arguments, the evidence was closed, the Board took the papers and reserved decision.

Orders.

Application of the Upper Hudson Railroad Company for a certificate under section 59 of the Railroad Law. Granted.

Application of the Syracuse Rapid Transit Railway Company for a certificate under section 59 of the Railroad Law. Refused.

The Board adjourned.

ALBANY, JUNE 30, 1896.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

Hearings.

Application of the Kingston and Lake Katrine Railway Company for a certificate under section 59 of the Railroad Law. Adjourned hearing. Frank White and J. G. Van Etten, for the application; F. L. Westbrook, for the New York Central and Hudson River Railroad Company, lessee of the West Shore Railroad, in opposition. After hearing evidence and arguments, certificate ordered granted.

Applications.

Application of the Patchogue and Port Jefferson Traction Company for the approval of the Board of the operation of its railroad by the overhead electrical trolley system. Ordered granted.

Application of the Hamburg Railway Company for approval of an increase of its capital stock from \$10,000 to \$50,000. Granted.

Inspections.

Letter from G. Hunter Brown, Jr., vice-president Newburgh, Dutchess and Connecticut Railroad Company, relative to the operation of the Clove branch. Ordered letter written, as shown by copy on file.

Orders.

Application of the Kingston and Lake Katrine Railway Company for a certificate under section 59 of the Railroad Law. Granted.

Application of the Patchogue and Port Jefferson Traction Company for the approval of the Board of the operation of its railroad by the overhead electrical trolley system. Granted.

Application of the Hamburg Railway Company for approval of an increase of its capital stock from \$10,000 to \$50,000. Granted.

O. Mathews against the Prospect Park Railroad Company. As shown by order on file.

George J. Grossman against the Manhattan Railway Company. As shown by order on file.

Commissioner Rickard submitted a report in the matter of the accident occurring to Car No. 719, of the Nassau Electric Railroad Company, on Thirty-ninth street, Brooklyn, June 7. Adopted and ordered issued.

The Board adjourned.

ALBANY, JULY 1, 1896.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

Hearings.

Ryder, Lefevre & Co. against the Delaware and Hudson Canal Company, alleging discrimination in freight rates. E. S. Ryder appeared for complainants; M. Cohn appeared with Mr. Ryder, and made a similar complaint; L. E. Carr appeared for the company. Mr. Carr stated that if the freight complained of was delivered to the Delaware and Hudson cars, that company would take it as a local shipment from Albany to Cobleskill at a 19 cent rate. With this understanding the case was dismissed.

Complaints.

A letter was received from James S. Root, relative to cattle pass on the line of the Lehigh Valley Railroad, on the farm of Mrs. Elizabeth Root, and referring to complaint made some years ago. Letter written Mr. Root, as shown by copy on file.

Applications.

Application of the Metropolitan Street Railway Company for the approval of the Board of an increase of capital stock from \$18,500,000 to \$30,000,000. Ordered granted.

Orders.

Application of the Metropolitan Street Railway Company for approval of an increase of capital stock from \$18,500,000 to \$30,000,000. Granted.

Bills.

The following bills were approved:

James B. Lyon.....	\$10 50
Hudson River Telephone Company.....	38 24
Postal Telegraph Cable Company.....	7 74
John Crayton.....	17 12
	<hr/>
	\$73 60
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The Board adjourned until Wednesday, August 26, 2 p. m., at Albany, unless a meeting is called in the meantime.

NEW YORK, JULY 18, 1896.

SPECIAL MEETING.

The Board met pursuant to call of the Chairman at the Murray Hill Hotel. Present, Commissioners Beardsley, Rickard and Chapin.

Complaints.

Residents of Purdy's Station against the New York, Ontario and Western Railway Company, asking that two trains a day stop at that station. Answer of company and reply of complainants received. Ordered that the company be notified that under section 34 of the Railroad Law, Purdy's Station can not be abandoned without the consent of this Board.

George J. Grossman against the Manhattan Railway Company. Letter received from the company, stating that the recommendations of the Board will be complied with. Copy of letter sent Gumbleton & Hottenroth, attorneys for complainants.

James S. Root against the Lehigh Valley Railroad Company, relative to crossing for cattle on the line of the Lehigh Valley Railroad Company, on the farm of Mrs. Elizabeth Root. Reply of complainant to letter of this Board, of date July 1, 1896. Letters written complainant and company, as shown by copies on file.

E. M. Carroll against the Erie Railroad Company, relative to alleged dangerous condition of a portion of the track of the Nyack and Northern Railroad (operated by the Erie Railroad Company) near Piermont-on-the-Hill. Letter received from complainant stating that the defect has been remedied and thanking the Board. Ordered case closed.

The West Brooklyn Association against the Nassau Electric Railroad Company, alleging its failure to comply with the recommendation of the Board that all cars on the Brooklyn, Bath and West End Railroad (leased by the Nassau Electric Railroad Company) should come to a full stop before passing Oowenhoven's lane. Answer of the company received, stating that it will comply with the recommendation of the Board. Copy of answer of company sent complainants with letter, as shown by copy on file. Ordered case closed.

Josiah S. Varney and others, of Dunham's Basin, Washington county, against the Delaware and Hudson Canal Company, asking that a flag station be restored at that point. Answer of the company received. Ordered complaint dismissed.

The Long Island Railroad Company against the Brooklyn Heights Railroad Company, relative to danger at crossings of said railroads. Copy sent the Brooklyn Heights Railroad Company and its answer received and copy sent complainant.

Messrs. Brady & Hinman against the Delaware and Hudson Canal Company, relative to alleged excessive freight rate charged on shipments of hops. Copy sent company and letter written complainants, as shown by copy on file.

Applications.

Application of the Syracuse and Suburban Railroad Company for a certificate under section 59 of the Railroad Law. Ordered hearing set down for Wednesday, August 26, 2 p. m., at Albany.

Application of the Newtown Creek Terminal Company for a certificate under section 59 of the Railroad Law. Ordered hearing set down for Wednesday, August 26, 2 p. m., at Albany.

Inspections.

Letter was received from G. Hunter Brown, Jr., vice-president Newburgh, Dutchess and Connecticut Railroad Company, relative to the operation of the Clove branch, which was reported in an unsafe condition by the Inspector of the Board. Letter written in reply, as shown by copy on file.

Orders.

Josiah S. Varney and others against the Delaware and Hudson Canal Company. Dismissed.

On motion, Charles R. Barnes, of Rochester, N. Y., was appointed electrical expert of the Board, under chapter 456 of the Laws of 1896, to serve during the pleasure of the Board, at a salary of \$3,000 per annum, his being one of the three names certified to the Board by the Civil Service Commission.

The Board adjourned.

NEW YORK, JULY 27, 1896.

SPECIAL MEETING.

The Board met pursuant to the call of the Chairman at the Hoffman House. Present, Commissioners Beardsley and Rickard.

Hearings.

S. D. Coykendall, president, and W. B. Van Etten, attorney Ulster and Delaware Railroad Company, appeared before the Board relative to the operation of electric cars on a portion of its railroad running to the "Point" at Kingston. They were informed that there appeared to be nothing in the law which forbids such operation.

A. L. Johnson, president Nassau Electric Railroad Company, appeared before the Board on citation relative to the overcrowding of cars of that line, etc. The electrical expert, Mr. Barnes, made a report of his observations at the terminus of said road at Coney Island. Clinton L. Rossiter, president Brooklyn Heights Railroad Company, appeared before the Board on citation, relative to overcrowding of cars of that line. Recommendations of the Board against such overcrowding were reiterated, and Mr. Barnes was instructed to confer with President Johnson relative to better terminal facilities at Coney Island.

Complaints.

Charles E. Detmer against the Marine Railway Company, alleging failure to operate its railroad. Copy sent company and answer of company received, alleging that the public is accommodated by another route, etc. Ordered that complainant be notified that it is a matter for consideration by the Attorney-General. Case dismissed.

George J. Grossman against the Manhattan Railway Company. Letter received from company asking for an extension of thirty days in addition to the original thirty days mentioned in the recommendation of the Board within which to comply therewith. Ordered granted.

Benjamin Sanders against the New York Central and Hudson River Railroad Company (Rome, Watertown and Ogdensburg division), relative to alleged excessive grade on a bridge at Marcy. Report of the Inspector, with recommendation, received. Ordered that the recommendations of the Inspector be made the recommendations of the Board and company notified.

Residents of the village of Nunda against the Western New York and Pennsylvania Railroad Company, asking for freight station. Letter from Citizens' Committee, stating that the recommendations of the Board have not been complied with. Ordered that the case be certified to the Attorney-General for his consideration and action.

The Long Island Railroad Company against the Brooklyn Heights Railroad Company, relative to danger at crossings of said railroads. Reply of complainant to answer of the Brooklyn Heights Railroad Company received and ordered filed.

Charles H. Weldner against the Ulster and Delaware Railroad Company, alleging poor condition of fences along his property. Letter sent company, as shown by copy on file.

Messrs. Brady & Hinman, of Cooperstown, against the Delaware and Hudson Canal Company, relative to alleged excessive freight rates charged on shipments of hops. Answer of the company received. Copy sent complainants.

Benjamin Doblin against the Metropolitan Street Railway of New York city, relative to cars not running on Lexington avenue after 1 a. m. Ordered letter written as shown by copy on file and complaint dismissed.

Applications.

Application of the Third Avenue Railroad Company for aproval of the operation of its Kingsbridge extension by the overhead electrical trolley system. Ordered hearing be set down for Friday, August 23, 2 p. m., Chamber of Commerce, New York, and notice be advertised in two New York newspapers on alternate days for three weeks before the hearing.

Inspections.

The following reports of inspections of railroads were submitted to the Board, and copies ordered sent the companies, with letters making the recommendations of the Inspector those of the Board:

Northern Central, of Pennsylvania, main line. Inspected July 15, 1896.
Addison and Pennsylvania Railroad. Inspected July 16, 1896.
Bath and Hammondsport Railroad. Inspected July 16, 1896.
Skaneateles Railroad. Inspected July 17, 1896.

Orders.

Charles E. Detmer against the Marine Railway. Ordered dismissed, for reasons shown by copy of letter on file.

George J. Grossman against the Manhattan Railway Company. Application of company granted.

Benjamin Sanders against the New York Central and Hudson River Railroad Company. Recommendations of Inspector made those of the Board.

Residents of the village of Nunda against the Western New York and Pennsylvania Railroad Company. Ordered papers transmitted to the Attorney-General for his consideration and action.

Benjamin Doblin against the Metropolitan Street Railway Company. Dismissed.

Bills.

The following bills were approved:

Weed-Parsons Printing Company.....	\$152 62
National Press Intelligence Company.....	1 55
United Typewriter and Supplies Company.....	2 75
Stuart G. Speir.....	1 00
American Express Company.....	15 15
National Express Company.....	10 05
Wm. H. Sample.....	80
P. J. Doyle.....	4 10
Wm. J. Sullivan.....	3 80
Wm. H. Terrell.....	5 75
E. C. McEntee.....	15 49

\$213 06

The Board adjourned.

ALBANY, AUGUST 26, 1896.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the meetings of July 18 and July 27 were read and approved.

Complaints.

J. S. Goldsmith against the Long Island Railroad Express Company, alleging excessive charges. Copy sent company.

T. O. Alexander against the Erie Railroad Company, relative to failure to issue mileage books. Copy sent company. Answer of company received, stating that it expects to have mileage books on sale at all stations not later than September 1. Copy sent complainant, and letter received from complainant.

Communication from the Colonial City Electric Railway Company, relative to the operation of electric cars owned by the Kingston City Railway Company on a portion of the tracks of the Ulster and Delaware Railroad Company to Kingston Point. Ordered answer be sent as shown by copy on file.

Theodore W. Starbuck and Emil Bersbach against the Nassau Electric Railroad Company, alleging that cars on the Brooklyn, Bath and West End division of that railroad do not stop at Fifty-fifth street and New Utrecht avenue, Brooklyn. Answer of company received. Copy sent Mr. Starbuck. Reply of Mr. Starbuck. Copy sent company.

J. L. Mock against the Delaware and Hudson Canal Company, asking that more trains be stopped at Douglass Station. Answer of company received. Letter sent Mr. Mock, and case closed.

Frederick Goll against the New York Central and Hudson River Railroad Company, alleging overcharge on a shipment of freight from Melrose station to St. John's Park, New York city. Copy sent company.

Ephraim Cutter, M. D., against the Union Railway Company of New York, alleging undue noise made by some of the cars of said company. Copy sent company. Answer of company received. Copy sent complainant. Reply of complainant received. Ordered that the electrical expert make an examination and report to the Board.

E. C. Cuyler against the Cooperstown and Charlotte Valley Railroad Company, alleging violation of the Bicycle Baggage Law. Copy sent company.

J. Foster Kelly and others against the Rochester Railway Company, alleging a violation of section 101 of the Railroad Law, by charging more than five cents for a continuous ride. Answer of company received, stating that the matter complained of has been corrected. Copy sent complainants.

R. W. Walker against the Lake Shore and Michigan Southern Railroad Company, relative to fires. Copy sent company. Answer of company received. Copy sent complainant. Reply of complainant received. Letter, as shown by copy on file, sent complainant, and case closed.

Charles E. Manierre, of New York city, against the New York, Ontario and Western Railway Company, relative to lighting cars by kerosene oil and dumping ashes on track. Ordered letter written complainant, as shown by copy on file.

A. R. Eastman and others against the Delaware, Lackawanna and Western Railroad Company, alleging failure to issue mileage books. Copy sent company. Answer of company received, stating that the books are being prepared, and will be placed on sale within two or three weeks. Letters written complainants, as shown by copies on file.

Long Island Railroad against the Brooklyn Heights Railroad Company, relative to the latter company's cars crossing the former company's tracks. Copies sent company and investigation made by the Secretary.

Charles H. Weidner against the Ulster and Delaware Railroad Company, alleging poor condition of fences along his property. Answer of company received. Copy sent complainant. Reply of complainant received. An inspection of the fences was made by an employee of the Board and report

made. Ordered that the recommendation in the report be made the recommendation of the Board.

Residents of the village of Nunda against the Western New York and Pennsylvania Railroad Company, asking for freight station. Papers were returned from the Attorney-General, with the correspondence that passed between him and the company. Ordered letter written complainants, as shown by copy on file.

O. Mathews against the Prospect Park and Coney Island Railroad Company. Letter received from complainant, stating that the recommendation of the Board, that proper lights be placed on the rear of engines, had not been complied with. Copy sent company. Answer of company received, stating that the recommendation has been complied with. Complainant notified, and case closed.

James S. Root against the Lehigh Valley Railroad Company, relative to crossing for cattle on the line of the Lehigh Valley Railroad Company, on the farm of Mrs. Elizabeth Root. Letter received from company, stating that the recommendations of the Board have been complied with. Copy sent complainant, and case closed.

Frederick G. Runde against the Prospect Park and Coney Island Railroad Company. Ordered case dismissed.

Applications.

Application of the Manhattan Railway Company for a further extension of thirty days in which to comply with the recommendation of the Board in the matter of George J. Grossman against said company. Ordered granted.

Application of the Portchester Street Railway Company for a certificate under section 59 of the Railroad Law. Hearing set down for Friday, August 28, 2 p. m., Chamber of Commerce, New York city. Notice being advertised.

Application of the Niagara Junction Railway Company for extension of time in which to comply with the Automatic Brake Law. Ordered extension granted until January 1, 1898.

Hearings.

Adjourned hearing on application of the Lehigh and Lake Erie Railroad Company for a certificate under section 59 of the Railroad Law. Wilson S. Bissell, counsel for the application; Hamilton Harris for the New York Central and Hudson River Railroad Company and Terminal Railway of Buffalo, and George F. Brownell and John B. Stanchfield for the Erie Railroad Company, in opposition. Ordered certificate refused.

Application of the Newtown Creek Terminal Company for a certificate under section 59 of the Railroad Law. Newell Martin, of Smith & Martin, for the application; no one in opposition. Ordered certificate granted.

Application of the Syracuse and Suburban Railroad Company for a certificate under section 59 of the Railroad Law. Giles Stillwell and Thomas Hogan, counsel for the application; T. E. Hancock and John Hogan, opposed. After hearing argument and evidence, the hearing was adjourned until Monday, September 28, 2 p. m., at Albany.

Orders.

Application of Manhattan Railway Company for further extension of thirty days in George J. Grossman matter. Granted.

Application of the Niagara Junction Railway Company for extension of time in which to comply with the Automatic Brake Law. Granted until January 1, 1898.

Lehigh and Lake Erie Railroad Company, for a certificate under section 59 of the Railroad Law. Refused.

Newtown Creek Terminal Company, for a certificate under section 59 of the Railroad Law. Granted.

Inspections.

The following report of inspections of railroads were submitted to the Board, and copies sent the companies, with letters, making the recommendations of the Inspector those of the Board: Dunkirk, Allegheny Valley and Pittsburg Railroad, Buffalo, Attica and Arcade Railroad.

Bills.

The following bills were approved:

Franics H. Woods, postmaster.....	\$4 32
American Express Company (July).....	10 35
National Express Company (July).....	6 85
Western Union Telegraph Company, June \$2.39, July \$3.20	5 59
Weed-Parsons Printing Company.....	18 10
Postal Telegraph Company, June \$9.90, July \$5.40....	15 30
Hudson River Telephone Company, June \$13.09, July \$27.84.....	40 93
National Press Intelligence Company.....	2 95
Western Union Telegraph Company.....	56
James B. Lyon.....	2 00
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	\$106 95

The Board adjourned until 10 a. m., August 27.

ALBANY, AUGUST 27, 1896.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

Hearings.

Application of the Ulster and Delaware Railroad Company for exemption under the Automatic Coupler and Brake Laws. Ordered exemption granted under the Air Brake Act for the years 1897 and 1898 and under the Coupler Act for the year 1896.

The Board adjourned.

NEW YORK, AUGUST 29, 1896.

The Board met at the Chamber of Commerce, pursuant to adjournment. Present, Commissioners Beardsley and Rickard.

The minutes of the meetings of August 26 and 27 were read and approved.

Hearings.

Application of the Third Avenue Railroad Company of New York city for permission to use the overhead electrical trolley system of motive power in the operation of an extension of its railroad along Kingsbridge road and other streets in the city of New York. Edward Lauterbach, counsel for the application; William F. Sheehan and Adam Frank, counsel, and

Albert Stetson, in opposition. Adjourned until Monday, September 21, 11 a. m., Chamber of Commerce, New York city.

Application of the Portchester Street Railway Company for a certificate under section 59 of the Railroad Law. John S. Wise, counsel for the application; no one in opposition. After hearing evidence and argument, ordered certificate granted.

Applications.

Application of the Third Avenue Railroad Company for approval of an increase of capital stock from \$9,000,000 to \$12,000,000. W. H. Page, Jr., counsel for the application. After reading and filing affidavits and papers, ordered increase approved.

Orders.

Application of the Portchester Street Railway Company for a certificate under section 59 of the Railroad Law. Granted.

Application of the Third Avenue Railroad Company for increase of capital stock. Approved.

The Board adjourned.

NEW YORK, SEPTEMBER 21, 1896.

The Board met pursuant to adjournment, at the Chamber of Commerce. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

Adjourned hearing in the matter of the application of the Third Avenue Railroad Company of New York city, for permission to use the overhead electrical trolley system of motive power in the operation of an extension of its railroad along Kingsbridge road and other streets in the city of New York. W. H. Page, Jr., counsel for the application; William F. Sheehan and H. A. Robinson, counsel, in opposition. After hearing arguments and evidence, the hearing was adjourned until September 22, 11 a. m., at the Chamber of Commerce.

NEW YORK, SEPTEMBER 22, 1896.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

After hearing further arguments in the matter of the application of the Third Avenue Railroad Company, Edward Lauterbach and W. H. Page, Jr., counsel for the application; W. F. Sheehan and H. A. Robinson, counsel in opposition, the Board reserved decision.

The Board adjourned.

NEW COMPANIES.

Formed under the Laws of the State of New York by filing articles of association from October 1, 1895.

SURFACE STEAM ROADS.

NAME OF COMPANY.	County in which operated.	Date when articles filed.	Length of road. Miles.	Capital stock.
The Irondequoit Park Railroad Company.....	Monroe	Oct. 19, 1895	4	\$100,000
The Albany, Helderberg and Schoharie Electric Railway Company.....	Albany and Schoharie..	Nov. 15, 1895	30	300,000
The Fulton Chain Railroad Company.....	Herkimer.....	Jan. 20, 1896	2	60,000
Upper Hudson Railroad Company	Saratoga and Warren...	Apr. 10, 1896	20	200,000
The Great Neck and Port Washington Railroad Company.....	Queens	Apr. 15, 1896	4	50,000
Peekasport Connecting Railway Company.....	Madison	Apr. 29, 1896	4	40,000
The Lehigh and Lake Erie Railroad Company.....	Erie	May 7, 1896	10	250,000
Newtown Creek Terminal Company.....	Kings	May 8, 1896	*	100,000
Saratoga and Mt. McGregor Railway Company.....	Saratoga.....	June 16, 1896	11	85,000

SURFACE STREET ROADS.

The Croton Valley Electric Railway Company.....	Westchester.....	Oct. 1, 1895	4	20,000
Niagara Falls Street Railway Company.....	Niagara.....	Oct. 5, 1895	5	50,000
The Buffalo Traction Company..	Erie	Oct. 28, 1895	66 6-10	3,000,000
Catskill, Cairo and Windham Street Railroad Company.....	Greene	Nov. 6, 1895	10	100,000
The North End Street Railway Company.....	New York.....	Nov. 9, 1895	12	5,000,000
East River and Atlantic Ocean Railroad Company.....	Kings	Nov. 18, 1895	25	3,000,000
The Brooklyn Bridge, Prospect Park and Eastern Railroad Company.....	Kings	Dec. 9, 1895	44 88-100	500,000
The Port Jervis Electric Street Railway Company.....	Orange	Dec. 9, 1895	7	70,000
Portchester Electric Railway..	Westchester.....	Dec. 11, 1895	10	500,000
The Watkins and Havana Railroad Company.....	Schuyler.....	Dec. 17, 1895	5	50,000
Bath and Lake Keuka Railway..	Steuben	Dec. 23, 1895	10	100,000
Empire City Traction Company..	New York.....	Dec. 30, 1895	3½	100,000
Tarrytown Electric Railway Company.....	Westchester.....	Jan. 21, 1896	4	50,000
The Patchogue and Port Jefferson Traction Company.....	Suffolk	Feb. 14, 1896	14	400,000
Kingston and Lake Katrine Railway Company.....	Ulster	Feb. 21, 1896	4½	100,000
Yonkers and Tarrytown Electric Railroad Company.....	Westchester	Feb. 24, 1896	13	750,000
Mountain Lake Electric Railroad Company.....	Fulton.....	Mar. 11, 1896	6	60,000

* Less than 3 miles.

NEW COMPANIES.—Concluded.

NAME OF COMPANY.	County in which operated.	Date when articles filed.	Length of road. Miles.	Capital stock.
The Ballston Terminal Railroad Company.....	Saratoga.....	Mar. 14, 1896	10	\$300,000
The Utica Suburban Railway Company.....	Oneida.....	Apr. 11, 1896	4	50,000
Syracuse Rapid Transit Railway Company.....	Onondaga.....	May 21, 1896	57 69-100	4,000,000
Plattsburgh Traction Company..	Clinton.....	May 27, 1896	8½	100,000
Port Chester Street Railway Company.....	Westchester.....	July 14, 1896	3	100,000
Onondaga Lake Railroad Company.....	Onondaga.....	July 16, 1896	7	250,000

TUNNEL RAILROAD.

The New York and Brooklyn Railroad Company.....	New York and Kings...	June 4, 1896	2	20,000
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COMPANIES REORGANIZED.

**"The North and East River Railroad Company," sold and reorganized as
FULTON STREET RAILROAD COMPANY.**

Capital stock, \$500,000.

**Articles of Incorporation filed in the office of Secretary of State October
29, 1895.**

**"The New York, Lake Erie and Western Railroad Company," sold and
reorganized as**

ERIE RAILROAD COMPANY.

Capital stock, \$148,000,000.

**Articles of Incorporation filed in the office of Secretary of State November
14, 1895.**

**"Colonial City Electric Railway Company," sold and reorganized as
COLONIAL CITY TRACTION COMPANY.**

Capital stock, \$175,000.

**Articles of Incorporation filed in the office of Secretary of State January
9, 1896.**

**"The Hudson Suspension Bridge and New England Railway Company,"
sold and reorganized as**

THE HUDSON HIGHLAND BRIDGE AND RAILWAY COMPANY.

Capital stock, \$84,900.

**Articles of Incorporation filed in the office of Secretary of State March 5,
1896.**

**"New York, Pennsylvania and Ohio Railroad Company," sold and
reorganized as**

THE NYPRIO RAILROAD COMPANY.

Capital stock, \$15,500,000.

**Articles of Incorporation filed in the office of Secretary of State March 23,
1896.**

**"The Kinderhook and Hudson Railway Company," sold and reorgan-
ized as**

KINDERHOOK AND HUDSON RAILWAY.

Capital stock, \$170,000.

**Articles of Incorporation filed in the office of Secretary of State April 11,
1896.**

"Long Island City and Newtown Railroad Company," sold and reorganized as

NEW YORK AND QUEENS COUNTY RAILWAY COMPANY.

Capital stock, \$2,500,000.

Articles of incorporation filed in the office of Secretary of State June 28, 1896.

"New York and Sea Beach Railway Company," sold and reorganized as

SEA BEACH RAILWAY COMPANY.

Capital stock, \$650,000.

Articles of incorporation filed in the office of Secretary of State August 29, 1896.

"The Twenty-eighth and Twenty-ninth Streets Railroad Company," sold and reorganized as

TWENTY-EIGHTH AND TWENTY-NINTH STREETS CROSSTOWN RAILROAD COMPANY.

Capital stock, \$1,500,000.

Articles of incorporation filed in the office of Secretary of State September 30, 1896.

COMPANIES CONSOLIDATED.

The following corporations were consolidated and name changed during the year, as follows, viz.:

STREET SURFACE ROADS.

NAME OF OLD COMPANY.	Name of present company.	Certificate filed.	Capital stock.
Metropolitan Street Railway Company; Columbus and Ninth Avenue Railroad Company.....	Metropolitan Street Railway Company	Nov. 12, 1895..	\$16,500,000
The West Side Railroad Company of Elmira; The East Side Railroad Company of Elmira	The West Side Railroad Company of Elmira, New York...	Jan. 30, 1896..	300,000
Oswego Street Railway Company; Fulton and Oswego Falls Street Railway Company	Lake Ontario and Riverside Railway Company.....	Mar. 10, 1896..	300,000
Thirty-fourth Street Railroad Company; The Thirty fourth Street Ferry and Eleventh Avenue Railroad Company.....	Thirty-fourth Street Crosstown Railway Company.....	Mar. 18, 1896..	1,000,000
The Yonkers Railroad Company; The North and South Electric Railway Company; Yonkers and Tarrytown Electric Railroad Company.....	The Yonkers Railroad Company	April 1, 1896..	1,000,000

STEAM ROADS.

Malone and St. Lawrence Railway Company; St Lawrence and Adirondack Railway Company	The St. Lawrence and Adirondack Railway Company	Nov. 18, 1895..	500,000
New York and Pennsylvania Railroad Company; Olean, Oswego and Eastern Railroad Company	New York and Pennsylvania Railroad Company.....	June 23, 1896..	500,000
Southwestern Railway Company (of Canada); St Lawrence and Adirondack Railway Company (of New York and Canada)	The St. Lawrence and Adirondack Railway Company.....	July 2, 1896..	1,000,000

EXTENSION OF ROUTES.

The following companies have, during the last year, filed articles of extension of routes :

NAME OF ROAD.	Extension filed.	Length of extension.
Hamburg Railway Company.....	Oct. 16, 1895	.....
Niagara Falls and Suspension Bridge Railway Company..	Oct. 16, 1895	.....
The Staten Island Midland Railroad Company.....	Oct. 23, 1895	.....
People's Traction Company of the City of New York.....	Oct. 31, 1895	.....
Utica Belt Line Street Railroad Company.....	Nov. 6, 1895	.....
Southern Boulevard Railroad Company.....	Nov. 8, 1895	.....
Metropolitan Street Railway Company.....	Nov. 13, 1895	.....
New York, Elmsford and White Plains Railway Company.	Nov. 13, 1895	.....
The Staten Island Midland Railroad Company.....	Nov. 18, 1895	.....
The Buffalo, Gardenville and Ebenezer Railway.....	Nov. 20, 1895	.....
The Syracuse and Oneida Lake Electric Railway Co.....	Nov. 20, 1895	.....
The Brooklyn City Railroad Company.....	Nov. 27, 1895	.....
Yonkers Railroad Company.....	Dec. 2, 1895	1,425 feet.
The Amsterdam Street Railroad Company.....	Dec. 6, 1895	.....
Brooklyn City and Newtown Railroad Company.....	Dec. 6, 1895	.....
Brooklyn City Railroad Company.....	Dec. 6, 1895	.....
Brooklyn Heights Railroad Company.....	Dec. 6, 1895	.....
Kings County Electric Railway Company.....	Dec. 6, 1895	.....
Metropolitan Street Railway Company.....	Dec. 9, 1895	.....
Metropolitan Street Railway Company.....	Dec. 9, 1895	.....
The Westchester Electric Railroad Company.....	Dec. 10, 1895	.....
Binghamton, Lestershire and Union Railroad Company..	Dec. 19, 1895	8 miles.
Watkins and Havana Railroad Company.....	Dec. 23, 1895	12 $\frac{3}{4}$ miles.
Crosstown Street Railway Company.....	Dec. 30, 1895	.....
Syracuse and Oneida Lake Electric Railway Company....	Dec. 30, 1895	.....
The Catskill, Cairo and Windham Street Railroad Co....	Jan. 2, 1896	.....
Port Chester, Rye, Harrison and White Plains Electric Railway Company.....	Jan. 14, 1896	.....
Staten Island Midland Railroad Company.....	Jan. 23, 1896	.....
Tonawanda Street Railroad Company.....	Jan. 23, 1896	.....
Elmwood Avenue and Tonawanda Electric Railway Co....	Jan. 27, 1896	.....
Nassau Electric Railroad Company.....	Jan. 28, 1896	.....
The Brooklyn City Railroad Company.....	Feb. 11, 1896	.....
The Brooklyn Heights Railroad Company.....	Feb. 11, 1896	.....
The Fulton and Oswego Falls Street Railway Company..	Feb. 11, 1896	5 miles.
Oswego Street Railway Company.....	Feb. 11, 1896	5 miles.
The Staten Island Midland Railroad Company.....	Feb. 19, 1896	.....
The Colonial City Traction Company.....	Feb. 24, 1896	Less than 1,500 feet.
Portchester Electric Railway.....	Feb. 26, 1896	7 miles.
The Yonkers Railroad Company.....	Mar. 3, 1896	.....
The New York, Elmsford and White Plains Railway Co..	Mar. 6, 1896	.....
The Staten Island Midland Railway Company.....	Mar. 7, 1896	.....
The Long Island Electric Railway Company.....	Mar. 24, 1896	.....
Hoesick Railway Company.....	Apr. 8, 1896	.....
Catskill, Cairo and Windham Street Railroad Company...	Apr. 10, 1896	.....
Troy City Railway Company.....	Apr. 13, 1896	.....
Brooklyn City Railroad Company.....	Apr. 19, 1896	.....
Staten Island Midland Railroad Company.....	Apr. 21, 1896	.....
Brooklyn, Newtown and Bowery Bay Railroad Company...	Apr. 22, 1896	.....
The Tonawanda Street Railroad Company.....	May 2, 1896	.....
New York, Elmsford and White Plains Railway Co.....	May 15, 1896	.....
Anburn City Railway Company.....	May 18, 1896	.....
Flushing and College Point Electric Railway Company...	May 19, 1896	.....
New York, Elmsford and White Plains Railway Co.....	May 20, 1896	.....
Staten Island Electric Railroad Company.....	June 23, 1896	.....
The Utica Belt Line Street Railroad Company.....	Aug. 7, 1896	.....
Colonial City Traction Company.....	Aug. 11, 1896	.....

INCREASE OF CAPITAL STOCK.

The following companies have increased their capital stock during the year, to-wit:

NAME OF ROAD.	From	To	Filed with Secretary of State.
Auburn City Railway Company.....	\$50,000	\$250,000	Oct. 24, 1895
The Terminal Railway of Buffalo.....	500,000	1,000,000	Jan. 4, 1896
The Binghamton, Lestershire and Union Railroad Co..	100,000	250,000	Feb. 14, 1896
The Fulton and Oswego Falls Street Railway Company..	15,000	100,000	March 5, 1896
The Oswego Street Railway Company.....	125,000	200,000	March 5, 1896
The Staten Island Midland Railroad Company.....	150,000	1,000,000	March 9, 1896
The Albany Railway.....	1,500,000	2,000,000	March 27, 1896
The Watkins and Havana Railroad Company.....	50,000	300,000	April 28, 1896
The Auburn City Railway Company.....	250,000	800,000	May 25, 1896
Lewiston and Youngstown Frontier Railway Company..	60,000	150,000	June 20, 1896
The Jamestown and Lake Erie Railway Company.....	250,000	350,000	July 3, 1896
The Metropolitan Street Railway Company.....	16,500,000	30,000,000	July 8, 1896
Third Avenue Railroad Company.....	9,000,000	12,000,000	Aug. 29, 1896

SURRENDER OF CAPITAL STOCK.

The following company has, during the year, surrendered its capital stock:

NEWBURGH AND NEW YORK RAILROAD COMPANY,

surrendered to the "New York, Lake Erie and Western Railroad Company."

Certificate filed in the office of Secretary of State November 2, 1895.

REDUCTION OF NUMBER OF SHARES.

The following company reduced the number of shares of its stock during the year:

AUBURN CITY RAILWAY COMPANY

reduced the number of its shares of capital stock from 10,000, of the par value of \$25 per share, to 2,500 shares, of the par value of \$100 per share.

Certificate filed in the office of Secretary of State April 15, 1896.

LEASED ROADS.

The following roads were leased during the year, viz.:

EIGHTH AVENUE RAILROAD COMPANY

was leased November 23, 1895, to "The Metropolitan Street Railway Company."

Lease filed in office of Secretary of State December 28, 1895.

BINGHAMTON, LESTERSHIRE AND UNION RAILROAD COMPANY

was leased January 18, 1896, to "Binghamton Railroad Company."

Lease filed in office of Secretary of State January 20, 1896.

THE ATLANTIC AVENUE RAILROAD COMPANY

was leased March 4, 1896, to "Nassau Electric Railroad Company."

Lease filed in office of Secretary of State April 6, 1896.

BROOKLYN, BATH AND WEST END RAILROAD COMPANY

was leased March 3, 1896, to "Atlantic Avenue Railroad Company."

Lease filed in office of Secretary of State April 29, 1896.

NEW YORK AND HARLEM RAILROAD COMPANY

leased its street lines in city of New York June 11, 1896, to "Metropolitan Street Railway Company."

Lease filed in office of Secretary of State July 16, 1896.

NYPANO RAILROAD COMPANY

was leased March 17, 1896, to "Erie Railroad Company."

Lease filed in office of Secretary of State August 7, 1896.

REDUCTION OF NUMBER OF DIRECTORS.

NAME OF COMPANY.	From	To	Filed with Secretary of State.
Niagara Falls and Lewiston Railroad Company	18	9	Oct. 22, 1895
The Niagara Shore Terminal Railroad Company	18	9	Nov. 20, 1895
Niagara Falls and Suspension Bridge Railroad Company ..	18	10	Dec. 7, 1895
The Elmira, Cortland and Northern Railroad Company	18	9	March 16, 1896

INCREASE OF NUMBER OF DIRECTORS

NAME OF COMPANY.	From	To	Filed with Secretary of State.
The Staten Island Midland Railroad Company	8	9	March 14, 1896

CHANGE OF NAME.

The following companies have changed their names:

NAME OF OLD COMPANY.	Name of new company.	Certificate filed.
Watkins and Havana Railroad Co.....	Elmira and Seneca Lake Railway Co..	June 6, 1896

CERTIFICATE UNDER SECTION 59, RAIL- ROAD LAW.

NEW YORK AND PENNSYLVANIA RAILROAD COMPANY.

Certificate filed in office of Secretary of State November 13, 1895.

HUDSON RIVER AND WASHINGTON COUNTY MIDLAND RAILROAD COMPANY.

Certificate filed in office of Secretary of State November 22, 1895.

THE LIVONIA AND LAKE CONESUS RAILROAD COMPANY.

Certificate filed in office of Secretary of State December 4, 1895.

SYRACUSE AND ONEIDA LAKE ELECTRIC RAILWAY COMPANY.

Certificate filed in office of Secretary of State January 4, 1896.

ALBANY, HELDERBERG AND SCHOHARIE ELECTRIC RAILWAY COMPANY.

Certificate filed in office of Secretary of State April 9, 1896.

PECKSPORT CONNECTING RAILWAY COMPANY.

Certificate filed in office of Secretary of State May 9, 1896.

MOUNTAIN LAKE ELECTRIC RAILROAD COMPANY.

Certificate filed in office of Secretary of State May 19, 1896.

GLOVERSVILLE AND BROADALBIN RAILROAD COMPANY.

Certificate filed in office of Secretary of State May 20, 1896.

PATCHOGUE AND PORT JEFFERSON TRACTION COMPANY.

Certificate filed in office of Secretary of State June 13, 1896.

KINGSTON AND LAKE KATRINE RAILWAY COMPANY.

Certificate filed in office of Secretary of State July 2, 1896.

NEWTOWN CREEK TERMINAL COMPANY.

Certificate filed in office of Secretary of State September 28, 1896.

CERTIFICATE OF MERGER.

The following companies have been merged during the year:

BUFFALO AND SOUTHWESTERN RAILROAD COMPANY
merged in the Erie Railroad Company.

Certificate filed in the office of Secretary of State November 19, 1895.

ERIE INTERNATIONAL RAILWAY COMPANY
merged in Erie Railroad Company.

Certificate filed in the office of Secretary of State November 30, 1895.

LOCKPORT AND BUFFALO RAILWAY COMPANY
merged in Erie Railroad Company.

Certificate filed in the office of Secretary of State November 30, 1895.

BUFFALO, NEW YORK AND ERIE RAILROAD COMPANY
merged in Erie Railroad Company.

Certificate filed in the office of Secretary of State April 11, 1896.

SUSPENSION BRIDGE AND ERIE JUNCTION RAILROAD COMPANY
merged in Erie Railroad Company.

Certificate filed in the office of Secretary of State April 11, 1896.

STEINWAY RAILWAY COMPANY OF LONG ISLAND CITY
merged in New York and Queens County Railway Company.

Certificate filed in the office of Secretary of State September 16, 1896.

ENACTMENTS.

1896.

Chap. 83. An act to extend the time for the completion of the Rhinebeck and Rhinecliff Street Surface Railroad Company.

Chap. 67. An act to amend chapter two hundred and thirty-three of the laws of eighteen hundred and ninety, entitled "An act to incorporate the New York and New Jersey Bridge Company, for the purpose of constructing and maintaining a permanent bridge for passenger and other traffic over the waters between New York city and the State of New Jersey, together with all necessary connections, appurtenances and approaches thereto and stations."

Chap. 87. An act to authorize the trustees of the New York and Brooklyn bridge to make the roadways upon the said bridge free to bicycle riders.

Chap. 112. An act in relation to the traffic in liquors, and for the taxation and regulation of the same, and to provide for local option, constituting chapter twenty-nine of the general laws.

Chap. 125. An act in relation to the construction, maintenance and operation of railways on Woodbine street in the city of Brooklyn.

Chap. 126. An act in relation to the construction, maintenance and operation of railways on Kosciusko street in the city of Brooklyn.

Chap. 127. An act in relation to the construction, maintenance or operation of railways on Pulaski street in the city of Brooklyn.

Chap. 128. An act in relation to the construction, maintenance or operation of railways on Hart street in the city of Brooklyn.

Chap. 129. An act in relation to the construction, maintenance or operation of railways on Vernon avenue in the city of Brooklyn.

Chap. 130. An act in relation to the construction and operation of railways on Dean street in the city of Brooklyn.

Chap. 181. An act in relation to Leonard street in the city of Brooklyn.

Chap. 182. An act in relation to Monroe street in the city of Brooklyn.

Chap. 183. An act in relation to Macon street in the city of Brooklyn.

Chap. 189. An act to amend chapter three hundred and seventy-eight of the laws of eighteen hundred and eighty-three, entitled "An act in relation to receivers of corporations."

Chap. 181. An act in relation to Rodney street in the city of Brooklyn.

Chap. 182. An act to prevent railways on New York avenue, in the city of Brooklyn.

Chap. 261. An act in relation to the construction, maintenance and operation of railways on Hopkins street in the city of Brooklyn.

Chap. 263. An act in relation to the construction, maintenance and operation of railways on Willoughby avenue in the city of Brooklyn.

Chap. 267. An act to amend chapter seven hundred and sixteen of the laws of eighteen hundred and ninety-three, entitled "An act to prevent monopolies in articles of general necessity," passed May seventeenth, eighteen hundred and ninety-three.

Chap. 282. An act to amend chapter three hundred and seventy-eight of the laws of eighteen hundred and eighty-three, entitled "An act in relation to receivers of corporations."

Chap. 299. An act to amend the Railroad Law, in relation to the use of stoves or furnaces.

Chap. 331. An act in relation to the construction of railroads upon, along or through Charles street, in the city of New York.

Chap. 332. An act in relation to the construction of railroads upon, along or through Perry street, in the city of New York.

Chap. 333. An act to amend section forty-four of the Railroad Law, relative to the transportation of baggage.

Chap. 356. An act to amend the Railroad Law relating to foreclosure and sale of property under decree of United States courts, or any court of competent jurisdiction.

Chap. 372. An act in relation to the construction, maintenance and operation of elevated railways on Adams street, between Myrtle avenue and Fulton street, in the city of Brooklyn.

Chap. 376. An act relating to domestic commerce law, constituting chapter thirty-four of the general laws.

Chap. 388. An act to provide for a better system of lighting passenger cars on elevated railroads in cities of over twelve hundred thousand inhabitants.

Chap. 396. An act in relation to the construction, maintenance, extension and operation of railways upon Van Buren street, in the city of Brooklyn.

Chap. 456. An act to amend the Railroad Law, relating to electrical experts.

Chap. 485. An act to amend chapter five hundred and fifty-four of the laws of eighteen hundred and ninety-three, entitled "An act to promote the safety of railway employes, by compelling the equipment of freight cars with automatic couplers."

Chap. 486. An act to amend chapter five hundred and forty-three of the laws of eighteen hundred and ninety-three, entitled "An act to promote

the safety of railway employes, by compelling the equipment of freight cars with continuous power or air brakes, and locomotives with driving-wheel brakes."

Chap. 523. An act to extend the time of the Little Falls, Van Hornesville and Otsego Lake Narrow Gauge Railroad Company, to begin the construction of its road and expend thereon ten per centum of the amount of its capital, and finish and put the same in operation.

Chap. 524. An act to amend chapter five hundred and sixty-nine of the laws of eighteen hundred and ninety, entitled "An act in relation to towns, constituting chapter twenty of the general laws," providing for the use of barbed wire in the building of division fences.

Chap. 534. An act to extend the time in which the Elevated Railroad Passenger Insurance Company may complete its organization and make the necessary deposit.

Chap. 559. An act to amend the code of civil procedure.

Chap. 569. An act to amend section twenty-four hundred and twenty of the code of civil procedure.

Chap. 594. An act to further amend chapter three hundred and thirty-nine of the laws of eighteen hundred and ninety-two, entitled "An act to regulate, improve and enlarge Park avenue above One Hundred and Sixth street in the city of New York, and providing for the passing of intersecting streets under the railroad structure of the New York and Harlem Railroad Company, and for the elevation of said railroad structure, and for changing the grade of said railroad, and for the construction of a new railroad bridge at an increased elevation over the Harlem river, and providing for all changes in any avenues, streets or railroads that may be necessary by reason of such change in structure and grade and increased elevation of bridge, and for other purposes."

Chap. 633. An act in relation to the construction, maintenance and operation of railways on Floyd street in the city of Brooklyn.

Chap. 634. An act in relation to the construction, maintenance and operation of railways upon Keap street in the city of Brooklyn.

Chap. 635. An act in relation to Greenwood avenue in the city of Brooklyn.

Chap. 636. An act in relation to the construction, maintenance and operation of railways on South Ninth street in the city of Brooklyn.

Chap. 637. An act in relation to the construction, maintenance and operation of railways on Ellery street in the city of Brooklyn.

Chap. 638. An act in relation to Rutledge street in the city of Brooklyn.

Chap. 639. An act in relation to the construction, maintenance and operation of railways on Stockton street in the city of Brooklyn.

Chap. 649. An act to validate and confirm certain consents heretofore given by the local authorities of cities of the first and second class in the construction, operation and maintenance of street surface railroads therein.

Chap. 651. An act in relation to the consent of property-owners to the construction of a railway in Linwood avenue in the city of Buffalo.

Chap. 664. An act to amend the penal code.

Chap. 670. An act in relation to the consent of property-owners to the construction of a railway on Bird avenue in the city of Buffalo.

Chap. 722. An act to prohibit the construction of street railways in West Eighty-seventh and West Eighty-eighth streets, between Central park west and the North river in the city of New York.

Chap. 756. An act in relation to the construction, maintenance or extension of railways upon Pacific avenue in the city of Brooklyn.

Chap. 757. An act in relation to the construction, maintenance or operation of railways on Stanhope street in the city of Brooklyn.

Chap. 758. An act in relation to the construction, maintenance and operation of railways on Ross street in the city of Brooklyn.

Chap. 759. An act in relation to the construction, maintenance, extension and operation of railways upon Third street in the city of Brooklyn.

Chap. 760. An act in relation to the construction, maintenance and operation of railways upon Washington avenue, from Butler street to Flatbush avenue, in the city of Brooklyn.

Chap. 761. An act in relation to the construction, maintenance and operation of railways upon certain streets and avenues in the city of Brooklyn.

Chap. 762. An act in relation to the construction, maintenance and operation of railways upon Classon avenue in the city of Brooklyn.

Chap. 763. An act in relation to the construction, maintenance and operation of railroads upon Saint Mark's avenue in the city of Brooklyn.

Chap. 764. An act to prevent the operation of any surface, elevated, electric or other railroad upon Saratoga avenue, between Broadway and the city line, or any portion of the same in the city of Brooklyn.

Chap. 765. An act in relation to the construction, maintenance and operation of railways upon Howard avenue in the city of Brooklyn.

Chap. 766. An act in relation to the construction, maintenance, extension and operation of railways upon Greenwood avenue, in the city of Brooklyn.

Chap. 767. An act to prevent railways on Lincoln road in the city of Brooklyn.

Chap. 781. An act in relation to the construction, maintenance and operation of railroads upon Herkimer street, in the city of Brooklyn.

Chap. 792. An act in relation to the construction, maintenance and operation of railways upon Patchen avenue in the city of Brooklyn.

Chap. 834. An act to provide for the construction and maintenance of an elevated roadway, viaduct or bridge over the tracks of the New York and Harlem Railroad and the Port Morris branch of the New York and Harlem Railroad, connecting Melrose avenue from East One Hundred and Sixty-third street to the junction of Webster and Brook avenues at East One Hundred and Sixty-fifth street in the city of New York.

Chap. 835. An act to amend chapter ten hundred and twenty-seven of the laws of eighteen hundred and ninety-five, entitled "An act in relation to the issue of mileage books by railroad corporations."

Chap. 838. An act in relation to Union street in the city of Brooklyn.

Chap. 855. An act to amend chapter five hundred and sixty-five of the laws of eighteen hundred and ninety, entitled "An act in relation to railroads, constituting chapter thirty-nine of the general laws," and the several acts amendatory thereof, in relation to surface railroads.

Chap. 856. An act in relation to Park place and Sterling place in the city of Brooklyn.

Chap. 863. An act to authorize and empower the common council of the city of Brooklyn to regulate the use of Gravesend avenue in said city by railroad corporations using said avenue.

Chap. 866. An act to protect Ocean avenue, in the twenty-ninth ward of the city of Brooklyn, in Kings county, from railroads.

Chap. 908. An act in relation to taxation, constituting chapter twenty-four of the general laws.

Chap. 929. An act to amend the stock corporation law, constituting chapter thirty-six of the general laws, in relation to change of place of business.

Chap. 932. An act to amend the stock corporation law, being chapter thirty-six of the general laws, as amended by chapter one hundred and ninety-six of the laws of eighteen hundred and ninety-three, in relation to voluntary dissolution.

Chap. 962. An act to amend section nineteen hundred and forty-eight of the code of civil procedure, by adding at the end thereof a new subdivision, relating to actions against foreign corporations.

Chap. 973. An act to amend the highway law, relative to commutations of labor on highways.

Chap. 974. An act to amend the Railroad Law, relating to unclaimed freight and baggage.

Chap. 977. An act to amend chapter four hundred and one of the laws of eighteen hundred and eighty-seven, entitled "An act in relation to milk cans," as amended by chapter twenty-five of the laws of eighteen hundred and ninety.

EXPENSES OF THE BOARD.

Traveling expenses of the Board of Railroad Commissioners for the year ending September 30, 1896, as filed and audited by items in the office of the Comptroller of the State. (Limited by chapter 585, Laws of 1890, to \$500 a month, in the aggregate, or \$6,000 per annum.)

Of the Commissioners.....	\$869 75
Of the Secretary.....	473 19
Of the Inspector, Accountant and Clerks.....	370 96
Of the Stenographer.....	278 19

Total.....	\$1,992 09
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ALPHABETICAL LIST

Of Companies Formed Under the Laws of This State.

Name of road.	When formed.
Addison and Northern Pennsylvania..	1882
Addison and Pennsylvania.....	1892
Addison and Pennsylvania.....	1892
Addison, Osceola and CowanesqueVal- ley	1878
Addison and Pennsylvania.....	1887
Adirondack	1839
Adirondack	1863
Adirondack Estate Railroad Company.	1860
Adirondack Extension.....	1891
Adirondack and St. Lawrence.....	1890
Adirondack Railway.....	1882
Albany	1861
Albany	1863
Albany, Bennington and Rutland.....	1850
Albany and Boston	1862
Albany and Boston.....	1864
Albany, Greenbush and Bath.....	1896
Albany, Helderberg and Schoharie.....	1896
Albany and Kenwood.....	1863
Albany and Lackawanna.....	1886
Albany and New York.....	1866
Albany and Northern.....	1861
Albany Railroad.....	1863
Albany Railway.....	1863
Albany, Sandlake and Stephentown.....	1871
Albany and Saratoga.....	1862
Albany and Saratoga Springs.....	1863
Albany and Schenectady.....	1847
Albany and Suburban.....	1896
Albany and Susquehanna.....	1861
Albany Terminal.....	1888
Albany and Vermont.....	1869
Albany, Vermont and Canada.....	1869
Albany and West Stockbridge.....	1836
Albion and Tonawanda.....	1832
Alleghany Central.....	1881
Alleghany Central.....	1882
Albany and Kinzua.....	1880
Amsterdam, Chuctanunda and North- ern	1879
Amsterdam Street.....	1873
Amsterdam Electric.....	1888
Amsterdam, Johnstown and Glovers- ville	1894
Arcade and Genesee River.....	1872
Astoria, Bliesville and Calvary Cem- etery	1891
Astoria and Hunter's Point.....	1867
Astoria and Hunter's Point.....	1877
Astoria Street.....	1891
Atlantic Avenue.....	1873
Atlantic Avenue.....	1890
Atlantic Cable.....	1888
Atlantic and Great Western.....	1869
Atlantic and Great Western.....	1872
Atlantic and Great Western of New York	1872
Atlantic and Great Western Railroad Company of New York and Pennsyl- vania	1872

Name of road.	When formed.
Atlantic and Ontario.....	1871
Attica and Allegheny Valley.....	1862
Attica and Arcade.....	1870
Attica and Arcade.....	1880
Attica and Buffalo.....	1886
Attica and Hornellsville.....	1846
Attica, Lockport and Lake Ontario.....	1883
Attica and Sheldon.....	1886
Auburn City.....	1886
Auburn and Canal.....	1832
Auburn and Deposit Air Line.....	1871
Auburn and Homer Midland.....	1872
Auburn and Ithaca.....	1889
Auburn-Inter-Urban Electric.....	1896
Auburn and Owasco Lake.....	1871
Auburn and Owasco Lake.....	1890
Auburn and Owasco Lake Electric.....	1889
Auburn and Port Byron.....	1869
Auburn and Rochester.....	1886
Auburn and Syracuse.....	1834
Auburn and Willow Brook.....	1872
Aurora and Buffalo.....	1832
Avenue C.....	1869
Avon, Genesee and Mount Morris.....	1880
Babylon	1871
Baldwinsville Branch.....	1886
Ballston Electric.....	1896
Ballston Terminal.....	1896
Batavia, Albion and Lake Ontario.....	1882
Batavia, Attica and Salamanca.....	1867
Batavia and Cheektowaga.....	1869
Batavia and Northern.....	1894
Batavia and Northern.....	1896
Batavia Street.....	1896
Bath and Crooked Lake.....	1831
Bath and Hammondsport.....	1872
Bath and Lake Keuka.....	1896
Bay Ridge and Sea Shore.....	1873
Bay Ridge and Sea Side.....	1871
Bay Shore.....	1866
Belden Point.....	1892
Belmont and Buffalo.....	1871
Binghamton.....	1892
Binghamton Central.....	1893
Binghamton, Dushore and Williams- port	1872
Binghamton, Lestershire and Union.....	1894
Binghamton and Port Dickinson.....	1868
Binghamton and Southwestern.....	1887
Binghamton and Susquehanna.....	1832
Binghamton and State Line.....	1892
Binghamton and Williamsport.....	1882
Black River.....	1836
Black River Company.....	1832
Black River and Morristown.....	1870
Black River and St. Lawrence.....	1868
Black River and Utica.....	1853
Black River and Woodhull.....	1868
Bleecker Street and Fulton Ferry.....	1864
Blossburg and Corning.....	1864
Boonville and Constableville.....	1868

Name of road.	When formed.
Boonville and Ontario.....	1868
Boonville and Port Ontario.....	1873
Boonville and Turin.....	1868
Boston and Albany.....	1870
Boston, Albany and Schenectady.....	1877
Boston, Hartford and Erie.....	1864
Boston, Hartford and Erie Extension.....	1864
Boston, Hartford and Erie Ferry Ex- tension.....	1864
Boston and Henderson Harbor.....	1872
Boston, Hoosac Tunnel and Albany.....	1873
Boston, Hoosac Tunnel and Western.....	1877
Boston, Hoosac Tunnel and Western Railway.....	1881
Boston, New York and Chicago.....	1874
Boston, New York and Western.....	1880
Boston, Rome and Oswego.....	1871
Boston, Saratoga and Western.....	1870
Boutenberg.....	1886
Bowery Bay and Hunter's Point.....	1882
Bradford, Eldred and Cuba.....	1881
Branchport and Penn Yan.....	1886
Breslau and Fire Island.....	1872
Brewerton and Syracuse.....	1836
Bridge Tunnel.....	1886
Brighton (No. 1).....	1880
Brighton (No. 2).....	1880
Brighton Beach.....	1879
Brighton Beach and New York.....	1880
Broadway and Bowery Bay.....	1883
Broadway (of Brooklyn).....	1883
Broadway (of New York).....	1884
Broadway Central Underground.....	1880
Broadway, Ferry and Metropolitan Avenue.....	1892
Broadway, Lexington and Fifth Ave.....	1884
Broadway Railway.....	1890
Broadway and Rockaway Beach.....	1880
Broadway and Seventh Avenue.....	1884
Broadway Surface.....	1884
Broadway Underground.....	1880
Broadway Underground Connecting.....	1880
Broadway and Yonkers Patent.....	1866
Brocton Street.....	1894
Brook Avenue.....	1886
Brookfield.....	1888
Brooklyn, Bath and Coney Island.....	1862
Brooklyn, Bath and Coney Island.....	1879
Brooklyn, Bath and West End.....	1879
Brooklyn, Bergen Beach and Canarsie.....	1893
Brooklyn Bridge, Prospect Park and Eastern.....	1896
Brooklyn Bridge and South Ferry.....	1887
Brooklyn Bridge and South Shore.....	1886
Brooklyn and Brighton Beach.....	1887
Brooklyn, Bushwick and Queens County.....	1886
Brooklyn Cable.....	1883
Brooklyn Cable.....	1886
Brooklyn and Canarsie.....	1866
Brooklyn Central.....	1859
Brooklyn Central and Jamaica.....	1860
Brooklyn City.....	1853
Brooklyn City Elevated.....	1876
Brooklyn City Elevated.....	1879
Brooklyn City, Hunter's Point and Prospect Park.....	1868
Brooklyn City and Newtown.....	1860
Brooklyn City and Ridgewood.....	1861
Brooklyn City and Rockaway.....	1862
Brooklyn and Coney Island.....	1876
Brooklyn and Coney Island Central.....	1877
Brooklyn, Coney Island and Rock- away.....	1878
Brooklyn Crosstown.....	1872
Brooklyn, East New York and Rock- away.....	1864
Brooklyn Elevated.....	1884
Brooklyn Elevated and Atlantic Beach.....	1879

Name of road.	When formed.
Brooklyn Elevated Railway Construc- tion Company.....	1882
Brooklyn Elevated Silent Safety.....	1874
Brooklyn, Flatbush and Coney Island.....	1866
Brooklyn, Flatbush and Coney Island.....	1869
Brooklyn, Flatbush and Coney Island Railway.....	1877
Brooklyn Flatbush and Rockaway Beach.....	1879
Brooklyn, Fort Hamilton, Bath and Coney Island.....	1836
Brooklyn, Fort Hamilton and Coney Island.....	1867
Brooklyn, Fort Hamilton and Coney Island.....	1881
Brooklyn Heights.....	1887
Brooklyn Heights Cable.....	1886
Brooklyn and Jamaica.....	1832
Brooklyn and Jamaica.....	1866
Brooklyn and Jersey City Ferry.....	1884
Brooklyn and Long Island Cable.....	1884
Brooklyn and Long Island City.....	1880
Brooklyn and Long Island Trunk.....	1883
Brooklyn and Montauk.....	1880
Brooklyn, Middle Village and Ja- maica.....	1866
Brooklyn, Mapleton, Van Pelt Manor and Bath Beach.....	1893
Brooklyn, Newtown and Bowery Bay.....	1894
Brooklyn, New York and New Jersey Terminal.....	1893
Brooklyn, Prospect Park and Flat- bush.....	1867
Brooklyn, Prospect Park and Jamaica Bay.....	1869
Brooklyn and Queens County.....	1883
Brooklyn, Queens County and Subur- ban.....	1893
Brooklyn and Rockaway.....	1867
Brooklyn and Rockaway Beach.....	1864
Brooklyn, Rockaway and Coney Island.....	1881
Brooklyn and Sea Shore.....	1871
Brooklyn Steam Transit.....	1869
Brooklyn Steam Transit.....	1871
Brooklyn Sub-railway.....	1886
Brooklyn and Suburban.....	1887
Brooklyn Underground.....	1881
Brooklyn, Winfield and Newtown.....	1870
Brooklyn and Winfield Railway.....	1869
Broome and DeLancey Street Cros- stown.....	1886
Broome, DeLancey and Spring Streets.....	1886
Buffalo.....	1860
Buffalo and Allegany Valley.....	1863
Buffalo, Aurora and Southeastern.....	1882
Buffalo and Batavia.....	1838
Buffalo, Belview and Lancaster.....	1892
Buffalo and Black Rock.....	1833
Buffalo, Bradford and Pittsburg.....	1859
Buffalo Branch of the Erie Railway.....	1861
Buffalo, Cayuga Valley and Pine Creek.....	1882
Buffalo, Chautauqua Lake and Pitts- burg.....	1879
Buffalo City.....	1867
Buffalo City.....	1877
Buffalo, Cleveland and Chicago Rail- way.....	1881
Buffalo and Conhocton Valley.....	1860
Buffalo, Corning and New York.....	1862
Buffalo, Corey and Pittsburg.....	1868
Buffalo Creek.....	1869
Buffalo Creek Extension.....	1874
Buffalo Creek Transfer.....	1881
Buffalo Crosstown.....	1874
Buffalo Traction.....	1896
Buffalo Dock and Connecting.....	1890
Buffalo and East Aurora Electric.....	1892
Buffalo East Side Street.....	1870
Buffalo Electric and Cable Street.....	1889

Name of road.	When formed.
Buffalo and Erie.....	1832
Buffalo and Erie.....	1867
Buffalo Erie Basin.....	1876
Buffalo, Gardenville and Ebenezer.....	1895
Buffalo and Geneva.....	1896
Buffalo and Geneva.....	1899
Buffalo and Great Western.....	1882
Buffalo Harbor.....	1883
Buffalo and Hamburg.....	1892
Buffalo and Hinsdale.....	1846
Buffalo and International.....	1857
Buffalo and International Bridge.....	1871
Buffalo and Jamestown.....	1872
Buffalo, Kenmore and Tonawanda Electric.....	1891
Buffalo, Lackawanna and Pacific.....	1889
Buffalo and Lancaster Electric.....	1892
Buffalo and Lake Huron.....	1858
Buffalo Lehigh.....	1881
Buffalo and Lockport.....	1852
Buffalo and New York.....	1851
Buffalo and New York City.....	1851
Buffalo, New York and Erie.....	1857
Buffalo New York and Philadelphia.....	1871
Buffalo and Niagara Falls.....	1834
Buffalo and Niagara Falls Electric.....	1893
Buffalo and Niagara Falls Electric.....	1896
Buffalo Niagara Slip.....	1877
Buffalo, North Main Street and Tona- wanda Electric.....	1892
Buffalo, North Main Street and Tona- wanda.....	1896
Buffalo, North Tonawanda and San- born Electric.....	1893
Buffalo and Oil Creek Cross Cut.....	1885
Buffalo and Pittsburg.....	1852
Buffalo, Pittsburg and St. Louis.....	1852
Buffalo, Pittsburg and Western.....	1880
Buffalo, Pittsburg and Western.....	1881
Buffalo and Rochester.....	1850
Buffalo, Rochester and Pittsburg.....	1881
Buffalo, Rochester and Pittsburg.....	1886
Buffalo, Rochester and Pittsburg.....	1887
Buffalo and South Park Belt Line.....	1887
Buffalo and South Western.....	1878
Buffalo and State Line.....	1849
Buffalo and Springville.....	1871
Buffalo Street.....	1860
Buffalo, Syracuse and Albany.....	1878
Buffalo and Tonawanda Electric.....	1893
Buffalo, Thousand Islands and Port- land.....	1890
Buffalo, Tonawanda and Niagara Falls.....	1853
Buffalo, Tonawanda and Niagara River.....	1890
Buffalo and Washington.....	1865
Buffalo and Williamsville.....	1868
Buffalo and Williamsville.....	1870
Buffalo and Williamsville.....	1886
Buffalo and Williamsville Electric.....	1891
Buffalo, Williamsville and Northern.....	1883
Burnet Street Car.....	1886
Bushwick.....	1867
Cairo.....	1884
Calvary Cemetery, Greenpoint and Brooklyn.....	1885
Camden, Watertown and Northern.....	1890
Campbell Hall Connecting.....	1889
Canajoharie and Catskill.....	1830
Canal.....	1878
Canandaigua and Bath.....	1872
Canandaigua and Corning.....	1845
Canandaigua and Elmira.....	1852
Canandaigua Lake.....	1887
Canandaigua and Niagara Falls.....	1851
Canandaigua, Palmyra and Ontario.....	1872
Canandaigua Railway and Transporta- tion Company.....	1828
Canandaigua Street.....	1896
Canandaigua and Syracuse.....	1853

Name of road.	When formed.
Canarsie, Brooklyn and Winfield.....	1864
Canarsie and Flatbush.....	1874
Canastota Northern.....	1888
Canistota Valley Electric.....	1891
Canton and St. Lawrence River.....	1885
Canton and Waddington.....	1884
Capitol Railway.....	1891
Cassadaga and Erie.....	1898
Castleton and West Stockbridge.....	1834
Carthage and Adirondack.....	1883
Carthage, Watertown and Sacketts Harbor.....	1899
Catskill City.....	1885
Catskill Horse.....	1874
Catskill, Cairo and Windham.....	1895
Catskill and Ithaca.....	1828
Catskill Mountain.....	1890
Catskill Mountain.....	1895
Catskill and Schoharie Valley.....	1871
Catskill and Tannersville.....	1892
Cattaraugus.....	1868
Cayadutta Electric.....	1892
Cayuga Lake.....	1867
Cayuga Lake Electric.....	1894
Cayuga Midland.....	1871
Cayuga Northern.....	1872
Cayuga Railway.....	1876
Cayuga Southern.....	1878
Cayuga and Susquehanna.....	1842
Cazenovia and Canastota.....	1868
Cazenovia and Canastota.....	1872
Cazenovia, Canastota and De Ruyter.....	1872
Cazenovia, Canastota and De Ruyter.....	1876
Cazenovia and De Ruyter.....	1872
Cedarhurst.....	1885
Central City.....	1859
Central Crosstown.....	1872
Central Dock and Terminal.....	1890
Central Elevated Railway.....	1899
Central Elevated Railway.....	1898
Central of Long Island.....	1871
Central New England and Western.....	1859
Central New York and Western.....	1892
Central Park, North and East River.....	1860
Central Park and Kingsbridge.....	1868
Central Railroad Extension.....	1872
Central Saratoga.....	1878
Central of Staten Island.....	1870
Central (Staten Island).....	1872
Central Tunnel.....	1881
Central Valley.....	1870
Chambers Street.....	1877
Chambers Street.....	1884
Chambers Street Crosstown.....	1890
Chambers Street and Grand Street Ferry.....	1894
Champlain and St. Lawrence.....	1851
Charlotte Lake View.....	1875
Charlotte and Lake View.....	1881
Chateaugay.....	1879
Chateaugay.....	1887
Chautauqua County.....	1861
Chautauqua Lake.....	1874
Chautauqua Lake.....	1885
Chautauqua Lake.....	1886
Chautauqua Valley.....	1882
Chazy.....	1893
Chemung.....	1845
Chemung and Ithaca.....	1857
Chemung Valley.....	1868
Cherry Valley, Sharon and Albany.....	1860
Cherry Valley and Mohawk River.....	1864
Cherry Valley and Sprakers Horse Power Railroad Company.....	1880
Cherry Valley and Susquehanna.....	1836
Chittenango and White Sulphur Springs.....	1895
Christopher and Tenth Street.....	1873
Christopher Street and James Slip Ferry.....	1885
Citizens' Electric.....	1887

Name of road.	When formed.	Name of road.	When formed.
Citizens' Electric (Corning).....	1892	Danville Electric.....	1893
Citizens' Railway.....	1895	Davenport.....	1888
Citizens' Railway of Jamestown.....	1890	Davenport, Middlebury and Durham.....	1892
Citizens' Street Railway.....	1890	Delaware.....	1836
Citizens' Street Railroad Company of Rochester.....	1886	Delaware and North River.....	1889
Citizens' Surface.....	1883	Delaware and Otsego.....	1887
City (Binghamton).....	1883	Delaware and Hudson River.....	1882
City Island.....	1884	Delhi and Middletown.....	1871
City Line and Canarsie.....	1869	Deer Park and Babylon.....	1892
City of Poughkeepsie.....	1869	Deerfield and Utica.....	1888
City (Poughkeepsie).....	1878	Depot Belt Line.....	1891
City Railway Company of New York.....	1888	Depew and Southwestern.....	1895
Clayton and Theresa.....	1871	Depew and Tonawanda.....	1896
Clinton Avenue.....	1864	Dexter and Brownville Street.....	1895
Clinton and South Clinton.....	1853	Dexter and Ontario.....	1889
Clove Branch.....	1868	Division Avenue.....	1853
Clyde and Sodus Bay.....	1853	Dry Dock, East Broadway and Bat- tery.....	1863
Coeymans.....	1836	Dunderberg Spiral.....	1889
Cohoes City.....	1894	Dunkirk, Allegheny Valley and Pitts- burg.....	1872
Cohoes and Waterford.....	1863	Dunkirk and Chautauqua Lake.....	1865
Cohoes and Waterford.....	1867	Dunkirk, Chautauqua Lake and Pitts- burg.....	1873
Cohoes and Waterford.....	1872	Dunkirk and Fredonia.....	1864
Cold Springs.....	1839	Dunkirk and Fredonia Rapid Transi- t.....	1891
Colonial City Traction.....	1896	Dunkirk and Junction.....	1879
Columbia County Electric.....	1895	Dunkirk, Warren and Pittsburg.....	1867
Columbia and Rensselaer.....	1886	Dunkirk, Warren and Pittsburg.....	1870
Columbia Street and Erie Basin.....	1866	Dutchess.....	1832
Columbus and Ninth Avenue.....	1892	Dutchess.....	1836
Concourse.....	1880	Dutchess and Columbia.....	1866
Conesus Lake.....	1882	Dutchess County.....	1890
Coney Island Beach.....	1877	Dutchess Extension.....	1889
Coney Island and Brooklyn.....	1860	East Branch Connecting.....	1889
Coney Island Centre and Safety Rails Elevated.....	1880	East Brooklyn Railroad.....	1874
Coney Island and East River.....	1876	East Brooklyn Railway.....	1873
Coney Island Electrical.....	1887	East Brooklyn, Winfield and New- town.....	1867
Coney Island Elevated.....	1880	East Buffalo Terminal.....	1883
Coney Island, Fort Hamilton and Brooklyn.....	1892	East Chester.....	1886
Coney Island, Fort Hamilton and Brooklyn.....	1894	Eastern Branch of the Dutchess and Columbia.....	1868
Coney Island and Gravesend.....	1893	Eastern Railroad Company of Long Island.....	1879
Coney Island High and Low-water Mark.....	1877	East Genesee Street and Seward Ave- nue.....	1871
Coney Island and Rockaway.....	1878	East Genesee Street and Seward Ave- nue Railway.....	1881
Coney Island and Sea View Elevated.....	1890	East New York, Bayside and Ozone Park.....	1885
Coney Island, Sheephead Bay and Ocean Avenue.....	1890	East New York and Jamaica.....	1860
Coney Island Surface.....	1877	East New York and Jamaica Bay.....	1865
Coney Island Surface.....	1889	East and North River.....	1861
Coney Island Transit.....	1890	East and North River.....	1884
Connecting Terminal.....	1881	East River and Atlantic Ocean.....	1895
Cooperstown and Charlotte Valley.....	1888	East River Bridge and Coney Island Transit.....	1881
Cooperstown and Cherry Valley.....	1837	East River, Central Park and North River.....	1889
Cooperstown and Susquehanna Valley.....	1865	East River and Connecticut Railway.....	1881
Copenhagen and Turin.....	1866	East River Connecting.....	1890
Corning and Blossburgh.....	1851	East River and Newtown.....	1885
Corning, Cowanesque and Antrim.....	1873	East River Tunnel.....	1885
Corning and Olean.....	1853	East Side (Elmira).....	1891
Corning and Painted Post.....	1866	East Side and Mt. Vernon Railway.....	1881
Corning and Painted Post Street.....	1894	East Side and New Rochelle Patent Railway.....	1866
Corning Traction.....	1894	East Side Railway.....	1868
Corning and Seneca Lake.....	1864	East Side of Rochester.....	1887
Cornwall Branch.....	1869	East and West.....	1890
Cornwall Suspension Bridge.....	1868	East and West Ferries.....	1887
Cortland and Homer.....	1882	Edenwald Street.....	1895
Cortland and Homer Traction.....	1894	Eddyville and Hickory Bush.....	1894
Coudersport, Hornellsville and Lacka- wanna.....	1889	Eighth Avenue.....	1855
Court Street and East End.....	1886	Eighth Ward.....	1889
Court Street and River Side.....	1883	Electric (Auburn).....	1893
Court Street and River Side.....	1885	Eleventh Ward Street.....	1889
Coxsackie and Schenectady.....	1837	Elmira, Canandaigua and Niagara Falls.....	1857
Crescent (Long Island City).....	1892	Elmira Connecting.....	1882
Crosstown Street.....	1890		
Crosstown and Rochester.....	1889		
Croton Valley.....	1885		
Croton Valley Electric.....	1895		
Cypress Hill Railway.....	1872		
Danville and Rochester.....	1882		

Name of road.	When formed.	Name of road.	When formed.
Elmira, Cortland and Northern.....	1884	Frankfort and Utica Street.....	1884
Elmira and Horseheads.....	1871	Franklin Avenue.....	1887
Elmira, Jefferson and Canandaigua.....	1859	Fredonia and Van Buren.....	1836
Elmira and Lake Ontario.....	1886	Friendship.....	1881
Elmira and Seneca Lake.....	1896	Fulton.....	1864
Elmira and State Line.....	1872	Fulton Chain.....	1896
Elmira Transfer.....	1885	Fulton and Cortlandt Street Ferry.....	1884
Elmira and Williamsport.....	1882	Fulton and Cortlandt Street Ferry	
Elmira and Williamsport.....	1860	Railway.....	1884
Elmwood Avenue and Tonawanda		Fulton Elevated.....	1888
Electric.....	1893	Fulton Ferry and Canarsie Bay.....	1888
Empire City Traction.....	1896	Fulton Ferry and Prospect Park.....	1887
Erie.....	1895	Fulton Ferry and Tenth Avenue.....	1885
Erie and Black Rock.....	1882	Fulton and Montgomery County Elec-	
Erie and Cattaraugus.....	1887	tric.....	1892
Erie and Central New York.....	1883	Fulton and Oswego Falls.....	1885
Erie and Genesee Valley.....	1868	Fulton and Oswego Falls Street.....	1885
Erie International.....	1872	Fulton Street.....	1895
Erie and New England.....	1868	Fulton Street Crosstown.....	1887
Erie and New York City.....	1882	Fulton, Wall Street and Cortlandt	
Erie and Niagara River.....	1882	Street Ferries.....	1885
Erie Railway.....	1861	Gallupville.....	1869
Erie, Rochester and Lake Ontario		Garnerville.....	1875
Terminal.....	1884	Geddes Street Railway.....	1886
Far Rockaway Beach.....	1881	Genesee Falls.....	1886
Far Rockaway Branch.....	1868	Genesee and Hudson.....	1862
Ferry Crosstown.....	1885	Genesee Valley.....	1864
Fifth Avenue.....	1884	Genesee Valley Canal.....	1880
Fifth Avenue.....	1885	Genesee Valley Junction.....	1882
Fifth Ward.....	1868	Genesee Valley Terminal.....	1882
Fifty-second, Fifty-third Streets and		Genesee and Water Street.....	1865
Boulevard.....	1886	Genesee and Wyoming Valley.....	1891
Fifty-ninth Street.....	1885	Genesee.....	1843
Fiftieth Street, Astoria Ferry and		Genesee and Pittsford.....	1836
Central Park.....	1890	Geneva and Canandaigua.....	1823
First Avenue and Jersey Ferries.....	1864	Geneva and Cattaraugus.....	1837
Fish House and Amsterdam.....	1832	Geneva Electric.....	1890
Fishkill.....	1868	Geneva and Hornellsville.....	1876
Fishkill Electric.....	1896	Geneva, Hornellsville and Pine Creek.....	1876
Fishkill and Matteawan Street.....	1886	Geneva and Ithaca.....	1870
Fishkill and Newburgh.....	1876	Geneva, Ithaca and Athens.....	1874
Fitchburg.....	1842	Geneva, Ithaca and Sayre.....	1877
Fitchburg.....	1892	Geneva and Lyons.....	1877
Flatbush, Coney Island and Canarsie.....	1864	Geneva and Sayre.....	1889
Flatbush, Coney Island Park and Con-		Geneva and Southwestern.....	1871
course.....	1876	Geneva, Southwestern and Hornells-	
Flushing.....	1852	ville.....	1873
Flushing.....	1863	Geneva Surface.....	1891
Flushing and College Point.....	1866	Geneva and Van Ettenville.....	1889
Flushing and College Point Electric.....	1894	Geneva and Waterloo.....	1893
Flushing and College Point Electric		Geneva, Waterloo, Seneca Falls and	
Street.....	1887	Cayuga Lake Traction.....	1895
Flushing and College Point Street.....	1886	Gilbert Elevated.....	1872
Flushing, Newtown and Long Island		Gilboa.....	1839
City.....	1892	Glendale and East River.....	1874
Flushing, North Shore and Central.....	1874	Glens Falls.....	1867
Flushing and North Side.....	1868	Glens Falls, Sandy Hill and Fort Ed-	
Flushing Village.....	1871	ward.....	1885
Flushing and Woodside.....	1864	Glens Falls Street.....	1885
Fonda and Fultonville.....	1875	Glen Haven.....	1893
Fonda and Fultonville Electric.....	1893	Gloversville and Broadalbin.....	1895
Fonda, Johnstown and Gloversville.....	1867	Gloversville and Kingsboro.....	1874
Forestport.....	1868	Gloversville, Mayfield and Northville.....	1868
Fort Ann and Mount Hope.....	1871	Gloversville and Northville.....	1872
Fort Edward, Glens Falls and Sandy		Gloversville Street Electric.....	1891
Hill.....	1863	Goshen and Albany.....	1842
Fort Hamilton and Coney Island.....	1881	Goshen and Deckertown.....	1867
Fort Hamilton and New York Ele-		Goshen and New Jersey.....	1837
vated.....	1888	Gouverneur and Adirondack.....	1890
Fort Plain and Richfield Springs.....	1887	Gouverneur and Edwards.....	1890
Fort Plain and Richfield Springs.....	1892	Gouverneur and Oswegatchie.....	1892
Fort Plain Street.....	1887	Grand Street.....	1859
Fort Pond Bay.....	1883	Grand Street Central Transit.....	1884
Forty-second Street Crosstown.....	1877	Grand Street Ferry and Middle Village.....	1869
Forty-second Street and Grand Street		Grand Street and Maspeth.....	1859
Ferry.....	1863	Grand Street and Newtown.....	1860
Forty-second Street, Manhattanville		Grand Street, Prospect Park and Flat-	
and St. Nicholas Avenue.....	1878	bush.....	1870
Fourteenth Street District Railway.....	1885	Grand View Beach.....	1889
Fourth Ward (Syracuse).....	1888	Gravesend, Flatlands, Flatbush and	
Frankfort and Ilion.....	1871	Brooklyn.....	1880

Name of road.	When formed.	Name of road.	When formed.
Great Ausable	1828	Hudson Electric	1888
Great Neck and Port Washington	1896	Highland Bridge and Railway	1898
Great Valley and Bradford	1881	Hudson and Kinderhook	1871
Greene	1838	Hudson and Mohawk	1869
Greene	1869	Hudson River	1848
Greenpoint and Calvary	1865	Hudson River and Boston	1885
Greenpoint and Lorimer Street	1884	Hudson River and Cornell	1895
Greenpoint, Prospect Park and Greenwood	1866	Hudson River and Washington County Midland	1895
Greenpoint and Williamsburgh	1864	Hudson River West Shore	1887
Greenwich and Johnsonville	1869	Hudson and St. Lawrence	1872
Greenwich and Johnsonville	1874	Hudson, Suspension Bridge and New England	1870
Greenwich and Johnsonville Railway	1879	Hudson Tunnel	1873
Greenwich and Schuylerville Electric	1895	Hudson Tunnel	1880
Greenwood and Coney Island	1872	Hudson Tunnel, of New York	1880
Greenwood Lake and Port Jervis	1888	Hudson Tunnel Railway	1880
Hamburg	1895	Hudson Valley	1870
Hamilton Avenue and Prospect Park	1869	Hudson and West Shore	1860
Hamilton Avenue, Prospect Park and Flatbush	1868	Hunter's Point Avenue and Calvary Cemetery	1889
Hamilton Ferry and Canarsie	1870	Hunter's Point and Flushing	1872
Hancock and Pennsylvania	1889	Hunter's Point, Ravenwood and Astoria	1864
Hancock and State Line	1889	Hunter's Point and Rockaway Beach	1867
Harlem Bridge, Morrisania and Fordham	1868	Hunter's Point and South Side	1870
Harlem, Brook Avenue and Woodstock	1890	Huntington Street	1887
Harlem Cross-town	1885	Huntington Street	1890
Harlem Extension	1870	Ilion Street	1875
Harlem and Kings Bridge	1892	International	1861
Harlem, Mott Haven and Morris Avenue	1890	International and Oak Orchard Harbor	1894
Harlem River	1883	Iron Hill	1873
Harlem River and High Bridge	1883	Irondequoit Park	1895
Harlem River and Port Chester	1896	Island	1882
Harlem River and Port Chester Rapid Transit	1890	Ithaca	1884
Harlem River and Woodstock	1886	Ithaca and Athens	1870
Harlem River and Tarrytown	1864	Ithaca and Auburn	1886
Harlem and Riverdale Park	1885	Ithaca, Auburn and Western	1876
Hartford and Connecticut Western	1881	Ithaca and Cortland	1869
Hayt's Corners, Ovid and Willard	1882	Ithaca and Geneva	1882
Hempstead Traction	1884	Ithaca and Oswego	1823
Hempstead and Jamaica	1865	Ithaca and Port Renwick	1884
Hempstead and Smithtown	1872	Ithaca and Tonawanda	1866
Hempstead and Rockaway	1870	Interstate Traction Company	1892
Henning Rapid Transit	1891	Irondequoit and Lake Shore Electric	1895
Herkimer and Mohawk	1871	Jackson and Steinway Avenue Railroad Company of Long Island	1879
Herkimer, Mohawk, Ilion and Frankfurt Electric	1895	Jamaica and Brooklyn Road	1880
Herkimer, Newport and Poland Narrow Gauge	1880	Jamaica and Middle Village	1866
Herkimer, Newport and Poland Extension	1891	Jamaica, Woodhaven and Brooklyn	1872
Herkimer and Trenton	1886	Jamestown	1871
Hicksville and Cold Spring Branch	1883	Jamestown	1883
Hicksville and Huntington	1865	Jamestown and Lake Erie	1894
High Bridge	1866	Jamestown and Northern	1885
High Bridge Elevated Incline	1883	Jamestown Short-Line Railway	1886
Highland Junction	1881	Jamestown Street	1882
Highland Trans-Hudson	1881	Janesville	1836
Hobart Branch	1884	Jerome Avenue	1889
Honeoye	1836	Jerome Park	1880
Hoosick	1893	Jerome Park Branch	1876
Hoosac Tunnel and Saratoga Railway	1881	Jersey City and Albany	1873
Hornell Street	1888	Jersey City and Albany Railway	1879
Hornellville	1888	Jersey City and Albany Railroad Company of the States of New York and New Jersey	1879
Hornellville and Almond Street	1873	Jersey Ferries and First Avenue	1865
Hornellville and Canisteo	1892	Johnsonville and Rutland	1890
Hornellville and Cohocton Valley	1882	Johnstown	1836
Hornellville Electric	1891	Johnstown, Gloversville and Kingsboro	1873
Hornellville and West Union	1889	Jordan and Skaneateles	1837
Horseheads and Elmira Avenue	1871	Junction	1870
Houston and Hoboken	1885	Junction Railway	1865
Houston, West Avenue and Pavonia Ferry	1874	Kanona and Prattsburgh	1886
Hudson Avenue	1867	Kaaterskill	1882
Hudson and Berkshire	1828	Kaaterskill and Plattekill	1892
Hudson and Boston	1855	Keeseville, Ausable Chasm and Lake Champlain	1889
Hudson Connecting	1887	Keeseville and Montreal	1869
Hudson and Delaware	1830	Kinderhook and Hudson	1889

Name of road.	When formed.
Kinderhook and Hudson.....	1896
Kinderhook, Valatie and Stuyvesant.....	1897
Kinderhook, Valatie and Niverville.....	1897
Kings Bridge Cable Railway.....	1896
Kings Bridge, High Bridge and Forty-second Street.....	1864
Kings Bridge and Yonkers.....	1876
Kings County.....	1878
Kings County Central.....	1876
Kings County Elevated.....	1878
Kings County Electric.....	1892
Kings, Queens and Suffolk.....	1895
Kingston City.....	1879
Kingston City Electric.....	1892
Kingston and Lake Katrine.....	1896
Kingston and Rondout.....	1895
Kingston Turnpike and Railroad Company.....	1835
Kingston and Utica.....	1892
Kingston, Warwick and Easton.....	1893
Lackawanna and Pittsburg.....	1890
Lackawanna and Southwestern.....	1899
Lackawanna and Susquehanna.....	1867
Lackawanna, Catskill Mountain and Boston.....	1893
Lake Champlain and Moriah.....	1867
Lake Champlain and Ogdensburg.....	1832
Lake Mahopac and Connecticut.....	1896
Lake Ontario.....	1874
Lake Ontario and Auburn.....	1866
Lake Ontario, Auburn and New York.....	1862
Lake Ontario and Hudson River.....	1867
Lake Ontario and Riverside.....	1896
Lake Ontario Shore.....	1868
Lake Ontario Southern.....	1890
Lake and River Improvement and Railroad Land Company of the New York Wilderness.....	1895
Lake Shore and Michigan Southern.....	1869
Lansingburgh and Cohoes.....	1880
Lansingburgh and Troy.....	1853
Lansingburgh and Troy.....	1872
Larchmont.....	1898
Laurel Hill, New Calvary and Lutheran Cemetery.....	1886
Lawrenceville and Erie.....	1874
Lebanon Springs.....	1852
Lebanon Springs.....	1893
Lehigh and Hudson River.....	1882
Lehigh and Lake Erie.....	1896
Lehigh and New York.....	1895
Lehigh Valley.....	1882
Lehigh Valley.....	1882
Lehigh and Pavilion.....	1893
Le Roy and Northern.....	1895
Lewiston.....	1896
Lewiston and Youngstown.....	1892
Lewiston and Youngstown Frontier.....	1895
Lexington Avenue and Fourteenth Street.....	1884
Lexington Avenue and South Ferry.....	1886
Lexington Avenue.....	1892
Lexington Avenue and Pavonia Ferry.....	1892
Lincoln Park and Charlotte.....	1888
Lima and Honeoye Falls.....	1892
Little Falls and Dolgeville.....	1891
Little Falls, Dolgeville and Piseco Lake.....	1883
Little Falls and Herkimer Street.....	1895
Little Falls Street.....	1895
Little Falls and Richfield Springs.....	1895
Little Falls, Van Hornesville and Otsego Lake Narrow Gauge.....	1889
Liverpool and Syracuse.....	1868
Livonia and Lake Conesus.....	1896
Lockport.....	1885
Lockport and Batavia.....	1838
Lockport and Buffalo.....	1871
Lockport and Niagara Falls.....	1834
Lockport and Northern.....	1889

Name of road.	When formed.
Lockport and Olcott Beach.....	1891
Lockport and Youngstown.....	1886
Lock City Electric.....	1892
Lockport City and Olcott Electric.....	1894
Locust Grove and Brighton Beach.....	1879
Long Beach Marine.....	1881
Long Island.....	1864
Long Island Boynton Bicycle.....	1891
Long Island City Calvary Cemetery.....	1871
Long Island City and Flushing.....	1881
Long Island City and Manhattan Beach.....	1898
Long Island City and Maspeth.....	1878
Long Island City and Newtown.....	1893
Long Island City and Sea Beach.....	1896
Long Island City Shore.....	1874
Long Island Elevated Railway.....	1896
Long Island Electric.....	1894
Long Island New York Terminal.....	1892
Long Island, North Shore Branch.....	1892
Long Lake.....	1895
Lyons Street Surface.....	1899
Madison Avenue and Eighty-sixth Street.....	1895
Madison Avenue and Twenty-third Street.....	1895
Madison Avenue Underground.....	1890
Madison County.....	1899
Mahopac Falls.....	1894
Main and Ohio Street.....	1869
Malden.....	1837
Malden.....	1863
Malone and Canada.....	1893
Malone and St. Lawrence.....	1891
Manhattan Beach Extension.....	1893
Manhattan Beach and West Brighton.....	1879
Manhattan Elevated.....	1875
Manhattan Railroad.....	1879
Manhattan Railway.....	1864
Manhattan Railway.....	1867
Manhattan Surface.....	1897
Mann's Boudoir Car.....	1893
Manheim and Salisbury.....	1894
Maple Avenue.....	1897
Marginal.....	1877
Marine.....	1878
Maspeth Railroad and Bridge Company.....	1868
Massena Springs and Fort Covington.....	1884
Mayville Extension.....	1881
Mayville and Portland.....	1832
Mechanicville and Fort Edward.....	1890
Medina and Darien.....	1894
Medina and Lake Ontario.....	1896
Melrose and West Morrisania.....	1896
Metropolitan Crostown.....	1889
Metropolitan Elevated.....	1872
Metropolitan Elevated.....	1878
Metropolitan Railroad.....	1864
Metropolitan Railway.....	1864
Metropolitan Street.....	1895
Metropolitan Surface.....	1895
Metropolitan Surface.....	1896
Metropolitan Transit.....	1867
Metropolitan Transit.....	1872
Metropolitan Underground.....	1891
Middleburgh and Schoharie.....	1867
Middle Central.....	1878
Middletown-Bloomingsburgh Electric.....	1895
Middletown and Crawford.....	1868
Middletown-Goshen Traction.....	1893
Middletown-Goshen Traction.....	1895
Middletown Horse.....	1870
Middletown Street.....	1889
Middletown Street Railroad and Power.....	1893
Middletown, Unionville and Water Gap.....	1866
Middle Village.....	1867
Middlesex Valley.....	1892

Name of road.	When formed.
Midwout, Amersfort and Coney Island.	1877
Mohawk and Adirondack.	1881
Mohawk and Hudson.	1826
Mohawk and Ilion.	1870
Mohawk and Lake Erie Railway.	1881
Mohawk and Moose River.	1867
Mohawk and St. Lawrence Railroad Navigation Company.	1837
Mohawk and St. Lawrence.	1880
Mohaw and Susquehanna Valley.	1887
Mohawk Valley.	1861
Mohawk Valley and Plisco.	1863
Mohawk Valley and Northern.	1880
Monroe and Greenwood Lake.	1877
Montague Street Railway.	1886
Montgomery and Erie.	1866
Montgomery and Erie.	1886
Monticello, Fallsburgh and New York.	1888
Monticello and Port Jervis.	1868
Montreal and Plattsburgh.	1868
Montauk Extension.	1893
Morris Avenue.	1886
Mountain Lake Electric.	1896
Mount McGregor.	1882
Mount McGregor.	1889
Mount Prospect and Carroll Street.	1873
Mount Vernon and East Chester.	1886
Mount Vernon and East Chester.	1887
Mount Vernon and Yonkers.	1886
Mount Vernon and New York.	1892
Myrtle Avenue Branch.	1881
Nanuet and New City.	1871
Nassau.	1886
Nassau Cable.	1884
Nassau Electric (Brooklyn).	1893
Neverink Valley.	1889
Newark.	1836
New Brighton and Onondaga Valley.	1869
Newburgh, Dutchess and Connecticut.	1877
Newburgh Electric.	1894
Newburgh.	1868
Newburgh.	1882
Newburgh.	1886
Newburgh and Kingston.	1869
Newburgh and Middletown.	1866
Newburgh and Midland.	1870
Newburgh and Orange Lake.	1894
Newburgh, New Windsor and Balmville.	1883
Newburgh and New York Railroad.	1864
Newburgh and New York Railroad.	1866
Newburgh and Poughkeepsie.	1867
Newburgh and Wallkill Valley.	1868
New England.	1896
New England, New York and Pennsylvania.	1878
New England, Lackawanna and Pittsburg.	1883
New England and Southwestern.	1886
New England and Western.	1887
New Hamburg and Poughkeepsie Connecting.	1893
New Jersey and Hudson River.	1881
New Jersey and New England.	1873
New Jersey and New York.	1876
New Jersey and New York Extension.	1886
New Jersey and Staten Island Junction.	1886
New Paltz and Highland Electric.	1893
New Rochelle and Pelham.	1886
New Rochelle Street Horse Railroad.	1886
New Rochelle Street Horse Railway.	1886
Newtown Creek Terminal.	1896
Newtown and Flushing.	1871
Newtown.	1894
New Williamsburg and Flatbush.	1873
New York.	1860
New York and Albany.	1832
New York and Albany.	1867
New York and Atlantic.	1880
New York and Atlantic Coast.	1880
New York, Bay Ridge and Jamaica.	1876

Name of road.	When formed.
New York and Boston.	1869
New York and Boston.	1882
New York, Boston and Albany.	1880
New York, Boston, Albany and Schenectady.	1880
New York and Boston Extension.	1872
New York, Boston and Montreal.	1873
New York and Boston Inland.	1882
New York, Boston and Northern.	1873
New York and Brighton Beach.	1879
New York and Brooklyn.	1886
New York and Brooklyn Elevated.	1880
New York and Brooklyn Marine.	1880
New York, Brooklyn and Manhattan Beach.	1886
New York, Brooklyn and Rockaway.	1881
New York, Brooklyn and Sea Beach.	1878
New York, Brooklyn and Sea Shore.	1877
New York and Brooklyn Tunnel.	1896
New York and Brighton Beach.	1878
New York Cable.	1884
New York and Canada.	1873
New York Central.	1863
New York District Railway.	1886
New York and Palisade.	1886
New York Central and Hudson River.	1869
New York Central, Hudson River and Fort Orange.	1884
New York Central Niagara River.	1877
New York, Chicago and St. Louis.	1881
New York, Chicago and St. Louis.	1887
New York City.	1884
New York City Crosstown.	1883
New York City Underground.	1888
New York City and Northern.	1878
New York City Rapid Transit.	1873
New York City Suburban Surface.	1889
New York and Coney Island.	1879
New York, Coney Island and Rockaway.	1879
New York and Connecticut.	1846
New York, Connecticut and Eastern of New York.	1880
New York Connecting.	1892
New York and Croton River.	1871
New York and Croton River Extension.	1872
New York Bay Extension.	1892
New York, Danbury and Boston.	1883
New York and East River.	1882
New York Elevated.	1871
New York and Erie.	1882
New York, Elmsford and White Plains.	1892
New York and Flushing.	1869
New York, Fordham and Bronx River.	1883
New York, Fort Hamilton and Coney Island.	1880
New York, Greenwood and Coney Island.	1879
New York Harbor.	1887
New York and Harlem.	1831
New York and Hempstead.	1871
New York and Hempstead Plains.	1870
New York and Highland Suspension Bridge Company.	1869
New York, Housatonic and Northern.	1864
New York and Jamaica.	1869
New York, Kingston and Syracuse.	1872
New York, Lackawanna and Western.	1880
New York and Lake Mahopac.	1861
New York, Lake Erie and Western.	1878
New York and Long Beach.	1880
New York and Long Island.	1887
New York, Long Island and Rockaway.	1879
New York and Long Island Suburban.	1891
New York and Mahopac.	1871
New York and Manhattan Beach.	1877
New York, Mapleton and Van Pelt Manor.	1892
New York and Massachusetts.	1887

Name of road.	When formed.
New York and Newburgh.....	1864
New York and New England.....	1873
New York, New England and North- ern.....	1893
New York, New Haven and Hartford.	1872
New York and New Jersey.....	1873
New York and New Jersey Railway.	1891
New York and New Jersey Terminal.	1891
New York and New Jersey Tunnel.....	1883
New York, New Jersey and Eastern.	1892
New York and New Rochelle.....	1852
New York and Northern.....	1866
New York and Northern.....	1880
New York and Northern.....	1883
New York and Northern.....	1887
New York Northern Central.....	1865
New York and North Salem.....	1871
New York, Ontario and Western.....	1880
New York and Oswego Midland.....	1866
New York and Pennsylvania.....	1895
New York and Pennsylvania.....	1896
New York, Pennsylvania and Ohio.....	1880
New York, Pennsylvania and Western.	1881
New York and Queens County Tunnel.	1891
New York and Queens County.....	1896
New York Quick Transit.....	1874
New York Railway.....	1871
New York, Richfield Springs and Cooperstown.....	1882
New York and Rockaway.....	1871
New York and Rockaway Beach.....	1876
New York and Rockaway Beach.....	1887
New York, Rockaway and Long Is- land.....	1880
New York, Rutland and Montreal.....	1883
New York and Sea Beach Railroad.....	1876
New York and Sea Beach Railway.....	1883
New York, Sea Beach and Coney Is- land.....	1878
New York and South Beach.....	1891
New York and South Side.....	1874
New York and South Mount Vernon.	1892
New York State.....	1873
New York Suburban Railway.....	1886
New York Surface Railway.....	1886
New York and Troy.....	1852
New York Tunnel.....	1880
New York Underground.....	1880
New York Underground Extension.....	1874
New York, Utica and Ogdensburg.	1870
New York and Westchester.....	1887
New York, Westchester and Boston.	1872
New York, Westchester and Connecti- cut.....	1895
New York and Westchester County.....	1859
New York, Westchester and Putnam.	1877
New York, Westchester and Putnam.	1887
New York and Western.....	1853
New York Western Midland.....	1872
New York West Shore and Buffalo.....	1880
New York, West Shore and Buffalo Railway.....	1881
New York, West Shore and Chicago.	1870
New York, White Plains and Mamar- oneck.....	1892
New York and White Plains.....	1871
New York, Woodhaven and Rockaway.	1877
New York and Yonkers.....	1859
New York and Yonkers.....	1892
Niagara Bridge and Canandaigua.....	1858
Niagara Electric.....	1893
Niagara Falls.....	1871
Niagara Falls Branch.....	1875
Niagara Falls, Buffalo and New York.	1852
Niagara Falls Street.....	1886
Niagara Falls and Lake Ontario.....	1852
Niagara Falls and La Salle.....	1890
Niagara Falls and Lewiston.....	1849
Niagara Falls and Lewiston.....	1890
Niagara Falls and Suspension Bridge.	1882
Niagara Falls and Whirlpool Railway	1887

Name of road.	When formed.
Niagara Falls, Whirlpool and North- ern.....	1894
Niagara Junction.....	1892
Niagara River.....	1852
Niagara River Street.....	1890
Niagara River and Erie.....	1889
Niagara River and New York Air Line.	1872
Niagara Shore Terminal.....	1891
Niagara Street.....	1859
Ninth Avenue.....	1859
Ninth Street, Brooklyn Ferry and Sub- urban.....	1893
North End Street.....	1895
North and East Greenbush.....	1872
North and East Greenbush.....	1882
North and East River.....	1885
North and South Electric.....	1894
North and New York City Traction.....	1895
Northern.....	1845
Northern Adirondack.....	1882
Northern Adirondack Extension.....	1898
Northern Air Line.....	1869
Northern Central New York.....	1867
Northern Extension of Rochester, Nunda and Pittsburg.....	1872
Northern of New Jersey.....	1854
Northern New York.....	1870
Northern New York.....	1895
Northern New York Junction.....	1891
Northern Railroad Company of Long Island.....	1891
Northern Slackwater and Railroad Company.....	1846
North Mount Vernon.....	1892
North New York.....	1885
North Park.....	1872
North River.....	1880
North River.....	1881
North River and Wall Street Ferry.....	1862
North Second Street and Middle Vil- lage.....	1871
North Side of Long Island.....	1867
North Side Railroad Company of Ro- chester.....	1887
North Side (Staten Island).....	1871
North Shore.....	1863
North Shore of Long Island.....	1870
North Shore and Port Washington.....	1874
North Third and Fleetwood.....	1890
Norwood and Montreal.....	1884
Nostrand Avenue and Park.....	1870
Nyack and Northern.....	1868
Nyack Traction.....	1895
Nypano.....	1896
Oak Hill Iron.....	1880
Oatka Valley.....	1883
Ocean Bay and Sheephead Bay Rail- way.....	1881
Ocean Palace Elevated.....	1877
Ocean Parkway Transit.....	1888
Ogdensburg.....	1857
Ogdensburg.....	1885
Ogdensburg, Clayton and Rome.....	1853
Ogdensburg and Lake Champlain.....	1864
Ogdensburg and Morristown.....	1871
Ogdensburg and Morristown.....	1877
Ogdensburg Street Railway.....	1885
Olean.....	1890
Olean, Bradford and Warren.....	1877
Olean Street.....	1890
Olean and Salamanca.....	1882
Old Forge.....	1894
Oneida.....	1885
Oneida Horse.....	1874
Oneida, Oneonta and New York.....	1889
Oneida Street.....	1887
Oneida Valley.....	1864
One Hundred and Fifty-fifth Street.....	1896
One Hundred and Sixteenth Street and Fort Lee Ferry.....	1885

Name of road.	When formed.	Name of road.	When formed.
One Hundred and Twenty-fifth Street.	1871	Pittsburg, Titusville and Buffalo.	1890
Oneonta	1887	Pittsburg and Montreal.	1860
Oneonta and Earlville.	1872	Pittsburg and Rouse's Point.	1861
Oneonta and Earlville.	1889	Plattsburgh Traction.	1896
Oneonta and Otego Valley.	1887	Portage and Cuba Low Grade.	1882
Oneonta and Richfield Springs.	1889	Port Byron and Auburn.	1829
Onondaga Lake.	1890	Port Chester Electric.	1895
Onondaga Lake.	1896	Port Chester and Tarrytown.	1882
Ontario Southern.	1876	Port Chester and Rye Beach Street.	1887
Orange County.	1877	Port Chester, Rye and Mamaroneck Electric.	1894
Orange County.	1889	Port Chester, Rye and White Plains Electric.	1895
Oscawana and Cornell.	1892	Port Chester Street.	1896
Ossining.	1888	Port Chester, White Plains and Tarrytown Street.	1888
Ossining Electric.	1893	Port Dickinson and Chenango River.	1881
Ossining Electric.	1893	Port Jervis Electric.	1889
Ossining Street.	1892	Port Jervis Electric Street.	1896
Oswego.	1885	Port Jervis and Monticello.	1875
Oswego, Binghamton and New York.	1855	Port Jervis, Monticello and New York.	1886
Oswego City (Street).	1870	Port Jervis and Suburban.	1889
Oswego City and Town.	1872	Port Morris and Westchester.	1861
Oswego and Cortland.	1836	Port Richmond and Prohibition Park Electric.	1891
Oswego Northern and Eastern.	1853	Potsdam and Montreal.	1881
Oswego and Rome.	1863	Potsdam and Watertown.	1852
Oswego and Syracuse.	1839	Poughkeepsie Bridge.	1888
Oswego and Syracuse.	1892	Poughkeepsie City.	1866
Oswego and Troy.	1854	Poughkeepsie and Connecticut.	1888
Oswego and Utica.	1836	Poughkeepsie Connecting.	1887
Otis Elevating Railway.	1885	Poughkeepsie Bridge and Railroad.	1892
Otego.	1832	Poughkeepsie and Delaware Valley.	1887
Ottawa, St. Lawrence and Schenectady.	1885	Poughkeepsie and Eastern.	1863
Ottawa, Waddington and New York Railway and Bridge Company of New York.	1884	Poughkeepsie and Eastern.	1893
Owasco River Railway.	1881	Poughkeepsie Grand Junction.	1879
Oyster Bay Extension.	1886	Poughkeepsie and Grand Junction.	1879
Park Avenue.	1870	Poughkeepsie, Hartford and Boston.	1875
Park Avenue.	1882	Poughkeepsie, Hartford and New England.	1887
Patchogue and Port Jefferson Traction.	1896	Poughkeepsie and Hudson.	1889
Peekskill Connecting.	1896	Poughkeepsie and Southeastern.	1886
Peekskill Valley.	1887	Poughkeepsie and Southwestern.	1883
Peekskill.	1893	Poughkeepsie Terminal.	1887
Peekskill and Cortlandt Electric.	1894	Poughkeepsie and Wappingers Falls.	1892
Peekskill, State Camp and Mohogan.	1884	Poughkeepsie and Millbrook.	1892
Pelham Park.	1884	Poughkeepsie and New Hamburg.	1883
Pelham and Port Chester.	1872	Prospect Park and Clarkson Street.	1878
Pelham and Travers Island.	1889	Prospect Park and Coney Island.	1867
Penfield and Canal.	1887	Prospect Park and Coney Island.	1874
Pennsylvania and Erie Coal and Railway Company.	1875	Prospect Park and Flatbush.	1875
Pennsylvania, Poughkeepsie and Boston.	1887	Prospect Park and Sea Side.	1879
Pennsylvania, Slatington and New England.	1882	Prospect Park and South Brooklyn.	1888
Pennsylvania and Sodus Bay.	1870	Putnam and Dutchess.	1871
Penn Yan and Geneva.	1875	Queen City Street.	1887
Penn Yan and New York.	1877	Queens County.	1871
People's.	1880	Queens Railway.	1872
People's (Brooklyn).	1893	Racket River.	1893
People's Electric Street.	1888	Racquette River.	1895
People's Rapid Transit.	1888	Rapid Transit.	1890
People's Surface of Niagara Falls and Suspension Bridge.	1891	Rensselaerville and Berne.	1869
People's Surface Railway.	1885	Rensselaer and Saratoga.	1832
People's (Syracuse).	1887	Rhinebeck and Connecticut.	1893
People's Traction of City of New York.	1896	Rhinebeck and Rhinecliff.	1893
Perry.	1882	Richfield Springs and Cherry Valley.	1882
Perth Amboy.	1885	Richfield Springs and Otego Lake.	1866
Philadelphia, Honesdale and Albany.	1893	Richfield Springs and Schuyler Lake.	1895
Philadelphia, Honesdale and Albany.	1893	Richmond county.	1885
Philadelphia Reading and New England.	1892	Riker Avenue and Sanford's Point.	1886
Piermont and Nyack.	1864	River Bridge.	1891
Piermont and West Shore.	1857	River and Valley Traction.	1894
Pine Plains and Albany.	1872	Rochester.	1833
Pine Plains and Rhinebeck.	1873	Rochester.	1890
Pittsburg, Chautauqua and Lake Erie.	1888	Rochester Cable.	1887
Pittsburg, Lackawanna and Northeastern.	1883	Rochester and Canal.	1831
		Rochester and Charlotte.	1836
		Rochester and Charlotte.	1881
		Rochester and Charlotte Boulevard.	1873
		Rochester, Charlotte and Manlitou.	1895
		Rochester City and Brighton.	1862
		Rochester Electric.	1887

Name of road.	When formed.	Name of road.	When formed.
Rochester City and Brighton Ter- minal	1887	Sacketts Harbor and Watertown.....	1855
Rochester and Genesee Valley.....	1851	Sackett Street	1896
Rochester and Genesee Valley Canal..	1879	St. Lawrence and Adirondack.....	1896
Rochester and Glen Haven.....	1887	St. Lawrence and Adirondack.....	1896
Rochester and Honeyoye Valley.....	1888	St. Lawrence Valley.....	1873
Rochester, Hornellsville and Lacka- wanna	1886	St. Nicholas Avenue and Crosstown..	1886
Rochester, Hornellsville and Pine Creek	1872	Salamanca, Bedford and Allegany River	1881
Rochester and Irondequoit.....	1878	Salamanca Electric Surface.....	1890
Rochester and Lake Beach.....	1888	Salamanca and Warren.....	1881
Rochester and Lake Ontario.....	1882	Salina and Oakwood Railway.....	1886
Rochester and Lake Ontario.....	1879	Salina and Port Watson.....	1829
Rochester, Lake Side and Braddocks Bay	1881	Saranac and Lake Placid.....	1890
Rochester and Lockport.....	1837	Saratoga Electric.....	1889
Rochester, Lockport and Niagara Falls	1850	Saratoga and Fort Edward.....	1832
Rochester, New York and Pennsyl- vania	1880	Saratoga and Hudson River.....	1864
Rochester, New York and Pennsyl- vania	1881	Saratoga Lake	1890
Rochester, Nunda and Pennsylvania..	1870	Saratoga Street	1887
Rochester, Nunda and Pennsylvania..	1873	Saratoga and Montgomery.....	1836
Rochester, Nunda and Pennsylvania Extension	1872	Saratoga and Mt. McGregor.....	1883
Rochester, Nunda and Pittsburg.....	1877	Saratoga and Mt. McGregor.....	1896
Rochester and Ontario Belt.....	1882	Saratoga, Mt. McGregor and Lake George	1883
Rochester and Pine Creek.....	1870	Saratoga Rapid Transit.....	1890
Rochester and Pittsburg.....	1863	Saratoga and Schenectady.....	1831
Rochester and Pittsburg.....	1881	Saratoga, Schuylerville and Hoosac Tunnel	1870
Rochester and Pittsburg.....	1882	Saratoga Springs and Schuylerville..	1832
Rochester Southern.....	1896	Saratoga and St. Lawrence.....	1885
Rochester and Southern.....	1852	Saratoga and St. Lawrence Extension.	1891
Rochester and Southern.....	1881	Saratoga and Washington.....	1824
Rochester and Southern.....	1896	Saratoga and Whitehall.....	1855
Rochester State Line.....	1870	Sauguot Valley Electric Street.....	1890
Rochester and Syracuse.....	1850	Schenectady	1896
Rochester Terminal.....	1886	Schenectady	1896
Rochester and Windsor Beach Rail- way	1881	Schenectady and Albany.....	1890
Rochester and Irondequoit.....	1893	Schenectady, Albany and North Adams	1893
Rockaway Beach and Far Rockaway Marine	1879	Schenectady and Catskill.....	1846
Rockaway Beach Railroad.....	1871	Schenectady and Catskill.....	1863
Rockaway Beach Transit.....	1881	Schenectady City.....	1873
Rockaway and Brooklyn.....	1863	Schenectady and Duaneburgh.....	1873
Rockaway Electric	1885	Schenectady and Mechanicville.....	1867
Rockaway Elevated.....	1878	Schenectady and Ogdensburg.....	1872
Rockaway Railway.....	1871	Schenectady and Ogdensburg Narrow Gauge	1882
Rockaway Surf	1890	Schenectady and Susquehanna.....	1846
Rockaway Village	1886	Schenectady and Susquehanna.....	1890
Rockland Central.....	1870	Schenectady and Susquehanna.....	1870
Rockland Central Extension.....	1872	Schenectady and Troy.....	1836
Rockland Lake.....	1885	Schenectady and Utica Railway.....	1895
Rockland Lake and Valley Cottage....	1882	Schoharie and Otsego.....	1832
Rome and Boonville.....	1882	Schoharie Street	1872
Rome and Carthage.....	1888	Schoharie Valley.....	1885
Rome City	1885	Schoharie Valley.....	1874
Rome and Clinton.....	1869	Schoharie Valley Railway.....	1890
Rome and Port Ontario.....	1837	Schuylerville and Fort Edward.....	1870
Rome Street.....	1874	Schuylerville and Moreau.....	1870
Rome and Sylvan Beach.....	1888	Schuylerville and Upper Hudson.....	1860
Rome, Watertown and Ogdensburg.....	1860	Schuylerville and Upper Hudson.....	1872
Rome, Watertown and Ogdensburg Terminal	1886	Scottsville and Canandaigua.....	1832
Rondout and Eddyville.....	1895	Scottsville and Le Roy.....	1836
Rondout and Kingston.....	1863	Sea Beach	1896
Rondout and Oswego.....	1866	Sea Beach and Brighton.....	1896
Rondout and Port Jervis Railroad.....	1865	Sea Beach and Sheephead Bay.....	1896
Rondout and Southwestern.....	1895	Sea Breeze Avenue.....	1881
Rondout Valley	1890	Sea Cliff Inclined Cable.....	1885
Roslyn and Huntington.....	1874	Sea Side Elevated.....	1890
Rutland and Whitehall.....	1886	Sea Side and Brooklyn Bridge Ele- vated	1890
Rye Lake	1874	Sea Side Transit	1890
Rye and Westchester.....	1871	Sea View	1896
Sacandaga Valley.....	1871	Sea View of Coney Island.....	1890
Sacketts Harbor and Ellisburgh.....	1851	Second Avenue	1853
Sacketts Harbor, Rome and New York	1860	Sedge Bank	1876
Sacketts Harbor and Saratoga.....	1862	Seneca County	1881
		Seneca Falls and Cayuga Lake.....	1886
		Seneca Falls, Restvale and Cayuga Lake Street	1896
		Seneca Falls and Waterloo.....	1896
		Seneca Lake Branch.....	1868

Name of road.	When formed.	Name of road.	When formed.
Seventh Ward Railway.....	1886	Susquehanna Valley Electric Traction.....	1893
Sharon and Root.....	1833	Syracuse.....	1886
Sheephead Bay and Coney Island.....	1877	Syracuse.....	1893
Sheephead Bay and Sea Shore.....	1865	Syracuse and Baldwinsville.....	1888
Sheephead Bay and Coney Island.....	1892	Syracuse and Binghamton.....	1867
Sherman Park and Westchester County.....	1894	Syracuse, Binghamton and New York.....	1857
Silver Creek and Dunkirk.....	1890	Syracuse, Binghamton and New York.....	1885
Silver Lake.....	1870	Syracuse Branch New York, Utica and Ogdensburg.....	1871
Silver Lake.....	1877	Syracuse and Chenango.....	1873
Sixth Avenue.....	1851	Syracuse and Chenango Valley.....	1868
Skaneateles.....	1836	Syracuse and East Side.....	1894
Skaneateles.....	1866	Syracuse, Chenango and New York.....	1877
Skaneateles and Jordan.....	1841	Syracuse Connecting Railway.....	1866
Smithtown and Port Jefferson.....	1870	Syracuse Consolidated Street.....	1890
Sodus Bay and Corning.....	1872	Syracuse, Cortland and Binghamton.....	1836
Sodus Bay, Corning and New York.....	1870	Syracuse, Eastwood Heights and DeWitt.....	1889
Sodus Bay and Southern.....	1883	Syracuse Electric.....	1890
Sodus Point and Southern.....	1852	Syracuse, Fayetteville and Manlius.....	1867
South Beach.....	1889	Syracuse and Geddes.....	1863
South Avenue Surface.....	1890	Syracuse, Geneva and Corning.....	1875
South Brooklyn.....	1878	Syracuse, Geneva and Corning.....	1885
South Brooklyn and Bergen Street.....	1863	Syracuse Junction.....	1873
South Brooklyn and Flatbush.....	1866	Syracuse Mineral Springs.....	1867
South Brooklyn Central.....	1877	Syracuse Northern.....	1868
South Brooklyn Central.....	1887	Syracuse and Northern.....	1885
South Brooklyn Railroad and Ter- minal.....	1887	Syracuse and Northwestern.....	1860
South Brooklyn Street.....	1886	Syracuse and Northwestern.....	1874
South Brooklyn and Park.....	1870	Syracuse and Onondaga.....	1836
South Cairo and East Durham.....	1881	Syracuse and Onondaga.....	1863
South Ferry.....	1874	Syracuse and Ontario.....	1882
South Ferry and Prospect Park.....	1874	Syracuse, Ontario and New York.....	1883
South Ferry Railroad Company.....	1889	Syracuse and Oneida Lake.....	1891
South Ferry and Sea Side Direct Tran- sit.....	1881	Syracuse and Oneida Lake Electric.....	1895
South Park.....	1889	Syracuse, Phoenix and Ontario.....	1882
Southern Boulevard.....	1885	Syracuse, Phoenix and Oswego.....	1872
Southern Central.....	1866	Syracuse, Phoenix and Oswego.....	1885
Southern Hempstead Branch.....	1875	Syracuse, Phoenix and Oswego.....	1886
Southern Long Island.....	1874	Syracuse Rapid Transit.....	1896
Southern New York.....	1895	Syracuse and Rochester Direct.....	1850
Southern Westchester.....	1871	Syracuse and South Bay.....	1886
Southfield Branch.....	1868	Syracuse and Southern.....	1856
South Side Connection.....	1868	Syracuse and Southwestern.....	1876
South Side of Long Island.....	1861	Syracuse and Southwestern.....	1877
Speers' Quick Transit.....	1879	Syracuse and Suburban.....	1895
Springville and Sardinia.....	1878	Syracuse Stone.....	1836
Sputen Duyvil and Port Morris.....	1867	Syracuse and Utica.....	1836
Squaw Island.....	1884	Syracuse, Union Street.....	1888
State Line and Eastern.....	1879	Syracuse Utica Direct.....	1853
State Line and Stony Point.....	1886	Tarrytown Electric.....	1896
State Island.....	1836	Tenth Avenue and Grand Street.....	1860
State Island.....	1852	Terminal (of Buffalo).....	1895
State Island.....	1873	Terminal Underground.....	1886
State Island Belt Line.....	1887	Terminal Union.....	1889
State Island Central.....	1871	Third Avenue.....	1853
State Island Electric.....	1894	Third Avenue and Fordham.....	1861
State Island Horse.....	1866	Third Street (Newburgh).....	1887
State Island Interior.....	1894	Third Ward Railway.....	1886
State Island Northern.....	1886	Thirty-eight and Thirty-ninth Streets Crosstown.....	1884
State Island North and South Shore.....	1881	Thirty-first Street.....	1885
State Island Rapid Transit.....	1880	Thirty-fourth Street.....	1884
State Island Sea Beach.....	1889	Thirty-fourth Street Crosstown.....	1896
State Island Shore.....	1864	Thirty-fourth Street Ferry and Eleventh Avenue.....	1885
State Island Shore.....	1869	Thirty-second Street.....	1880
State Island Terminal.....	1883	Tillie Foster Mine.....	1889
State Island Terminal Electric.....	1895	Ticonderoga.....	1889
Steinway (Long Island City).....	1892	Tioga and Erie.....	1866
Steinway Avenue and Bowery Bay.....	1883	Tioga and Savonia.....	1875
Steinway and Hunter's Point.....	1874	Tivoli Hollow.....	1893
Steinway and Hunter's Point.....	1883	Tonawanda.....	1832
Sterling Mountain.....	1864	Tonawanda, Genesee Valley and Pine Creek.....	1882
Stillwater and Mechanicville.....	1882	Tonawanda Electric.....	1890
St. Lawrence.....	1892	Tonawanda Street.....	1890
St. Lawrence and Adirondack.....	1891	Tonawanda Valley.....	1880
St. Regis and Salmon River.....	1892	Tonawanda Valley and Cuba.....	1881
Stony Clove and Catskill Mountain.....	1881	Tonawanda Valley and Cuba.....	1881
Suburban Rapid Transit.....	1875	Tonawanda Valley Extension.....	1881
Suburban Traction.....	1892		
Suspension Bridge and Erie Junction.....	1868		

Name of road.	When formed.
Tonawanda, Wiscoy and Genesee Valley	1882
Transit	1872
Trenton and Sacketts Harbor	1837
Troy and Albia	1866
Troy and Averil Park	1886
Troy and Bennington	1851
Troy and Boston	1849
Troy and Chatham	1882
Troy City	1867
Troy and Cohoes	1862
Troy and Greenbush	1845
Troy and Lansingburgh	1860
Troy and Lansingburgh	1880
Troy and New England	1889
Troy and Rutland	1849
Troy and Saratoga	1871
Troy, Saratoga and Northern	1886
Troy and Stockbridge	1886
Troy and Susquehanna	1871
Troy Turnpike and Railroad	1831
Troy Union	1851
Troy and Utica	1853
Tunnel Extension	1882
Twenty-eighth and Thirtieth Street	1884
Twenty-eighth and Twenty-ninth Streets Crosstown	1885
Twenty-eighth and Twenty-ninth Streets Crosstown	1886
Twenty-third Street	1869
Twenty-third Street	1872
Twenty-third Street Ferry and Newtown	1893
Twenty-third Street District Railway	1885
Tyrone and Geneva	1857
Ulster County	1836
Ulster County Electric	1886
Ulster and Delaware	1875
Unadilla and Schoharie	1836
Unadilla Valley	1890
Union	1851
Union (Buffalo)	1869
Union (New York city)	1892
Union Electric of Saratoga	1890
Union Elevated	1886
Union Passenger Railway and Transportation Company of New York	1885
Union Pneumatic Railway	1867
Union Railroad Company	1857
Union Street	1890
Union of the City of Brooklyn	1884
Union (Syracuse)	1852
Union and Syracuse Straight Line	1852
Union Terminal of the City of Buffalo	1884
Union Village and Johnsonville	1867
Union (of Westchester)	1859
United States and Canada	1883
United States and Canada	1888
United States Harvey-way Construction Company	1882
Upper Hudson	1872
Upper Hudson	1896
Uptown Fifth Avenue	1885
Utica, Adirondack and Saratoga	1888
Utica Belt Line	1886
Utica and Binghamton	1853
Utica and Black River	1861
Utica and Black River	1883
Utica and Black River	1886
Utica, Chenango and Cortland	1870
Utica, Chenango and Susquehanna Valley	1886
Utica City	1862
Utica, Clinton and Binghamton	1868
Utica and Deerfield Street	1871
Utica and Fair-ground	1875
Utica, Georgetown and Elmira	1870
Utica and Herkimer Street	1894
Utica, Horseheads and Elmira	1870
Utica and Ilion Narrow Gauge	1877
Utica, Ithaca and Elmira	1872

Name of road.	When formed.
Utica, Ithaca and Elmira Railway Company	1878
Utica and Mohawk	1874
Utica and Mohawk (Street)	1869
Utica and Schenectady	1833
Utica Suburban	1896
Utica and Susquehanna	1832
Utica and Syracuse Air Line	1890
Utica and Syracuse Railway	1865
Utica and Unadilla Valley	1888
Utica and Waterville	1854
Utica and Waterville	1867
Valatie and Kinderhook Street	1889
Van Nest, West Farms and Westchester Traction	1892
Valley	1869
Van Brunt Street and Erie Basin	1861
Waddington, Canton and Southern	1894
Wakefield and Westchester Traction	1892
Walden and Orange Lake	1894
Wall Street Ferry	1828
Walkkill Valley	1877
Walkkill Valley Railway	1866
Warren County	1832
Warren Sugar Grove and Mayville	1885
Warsaw and Le Roy	1854
Warwick	1837
Warwick Valley	1860
Washington Bridge, Tremont and Westchester	1890
Washington County	1887
Washington County Central	1865
Washington Street, Asylum and Park	1897
Washington Street and State Asylum	1872
Water and Clinton Street	1878
Waterford and Cohoes	1863
Waterford and Cohoes	1863
Waterloo, Seneca Falls and Cayuga Lake	1894
Watertown, Electric Light and Power and Railroad	1895
Watertown and Brownville Street	1890
Watertown and Cape Vincent	1836
Watertown and Rome	1832
Watertown Street Railway	1887
Watervliet and Schenectady	1836
Watervliet Turnpike and Railroad	1862
Watkins and Havana Street	1872
Watkins and Havana	1895
Watkins and Havana	1895
Waverly and State Line	1867
Waverly, Sayre and Athens Traction	1894
Wellsville, Bolivar and Eldred	1881
Wellsville, Coudersport and Pine Creek	1882
Wellsville and Fillmore	1882
Wellsville, Honeoye and Ceres	1882
West Brooklyn	1887
West Brooklyn Electric	1890
West Davenport	1891
Westchester	1863
Westchester County	1856
Westchester County	1878
Westchester County	1884
Westchester County Central Electric	1895
Westchester County and New York City	1860
Westchester Electric	1891
Westchester and Putnam	1891
Westchester Railway	1881
Westchester and Long Island Tunnel	1893
Westchester and Williamsbridge Traction	1895
West End and Glenwood	1876
West Farms and Westchester Traction	1892
Western New York	1895
Western New York and Pennsylvania	1887
Western New York and Pennsylvania	1895
Westfield and Chautauqua	1896
Westport and Kingdom	1868

Name of road.	When formed.	Name of road.	When formed.
West Shore.....	1863	Williamsbridge, Woodlawn and West-	
West Shore.....	1886	chester.....	1891
West Shore Hudson River.....	1863	Williamsbridge and Westchester Traction.....	1892
West Shore and International Bridge.....	1893	Williamsburgh and Coney Island.....	1864
West Side.....	1864	Williamsburgh and Flatbush.....	1866
West Side.....	1887	Williamsburgh and Newton.....	1866
West Side (Elmira).....	1891	Williamsburgh and Elmira.....	1860
West Side (Elmira).....	1896	Williamstown and Redfield.....	1865
West Side Elevated Patent Railway...	1868	Windsor Beach and Ontario.....	1887
West Side (New York).....	1892	Woodlawn and Butternut.....	1886
West Side of Rochester.....	1887	Yates Avenue and Flatbush.....	1890
West Side and Yonkers Patent.....	1866	Yonkers.....	1878
West Troy and Green Island.....	1870	Yonkers.....	1895
West Water Street.....	1890	Yonkers.....	1896
Williamsport and Binghamton.....	1887	Yonkers Electric.....	1894
Wilson Terminal.....	1899	Yonkers, Mt. Vernon, Pelham and New Rochelle.....	1891
Wharton Valley.....	1898	Yonkers and New York.....	1864
Whitehall and Plattsburgh.....	1853	Yonkers Rapid Transit.....	1879
Whitehall and Plattsburgh.....	1866	Yonkers Street.....	1896
Whitehall and Rutland.....	1833	Yonkers and Tarrytown Electric.....	1896
Whitestone and Westchester.....	1872	Youngstown and Buffalo.....	1888
Whitestone and College Point.....	1893		

The Following Are the Rules of Procedure Adopted by the Board in Matters Coming Before It.

Complaints.

Complaints to the Board against railroad companies should be made in writing, and the cause of complaint should be stated clearly. Upon receipt of a complaint a copy is sent to the railroad company, and answer must be made within ten days, unless longer time is allowed by the Board. A copy of the answer is sent to the complainant, and if not satisfactory, issue is joined, a hearing had and a decision rendered.

Increase of Capital Stock.

(Section 46, Stock Corporation Law.)

Application must be made by verified petition. The Board requires:

First. Three certified copies of the proceedings of the meeting of the stockholders, two to be indorsed and one to be filed in this office.

Second. A sworn statement of the financial condition of the company as to the amount of the capital stock, outstanding indebtedness and the cost of road and equipment.

Third. A sworn statement of the purposes to which the proposed increase is to be devoted, and, if for further construction or equipment, an estimate of the cost thereof made by a person competent to make the same, and verified.

Reduction of Capital Stock.

(Section 46, Stock Corporation Law.)

Application must be made by verified petition. The Board requires:

First. Three certified copies of the proceedings of the meeting of the stockholders, two to be indorsed and one to be kept in this office.

Second. A sworn statement from the proper officer of the company that the reduced capital is sufficient for the proper purposes of the corporation and is in excess of its debts and liabilities, the aggregate amount of such debts and liabilities to be stated.

Increase or Reduction of Number of Shares of Stock.

(Section 56, Stock Corporation Law.)

Application must be made by verified petition. The Board requires:

First. Three certified copies of the proceedings of the meeting of the stockholders, two to be indorsed and one to be filed in this office.

Second. A statement of the reasons why it is proposed to increase or reduce the number of shares of stock.

Filing of Maps of Railroads.

(Section 6, Railroad Law.)

Section 6 of the Railroad Law shows in detail what is required.

Accommodations of Connecting Railroads.

(Section 35, Railroad Law.)

Application must be made by verified petition. The Board will in each case prescribe rules for proof in applications under this section.

Railroads Crossing Each Other at Grade.

(Section 36, Railroad Law.)

Application must be made by verified petition. The Board requires:

First. As to the precedence of trains: The Board will in each case prescribe rules for proof in applications under this provision.

Second. In applications for approval of an interlocking switch and signal apparatus at such crossings, a hearing will be given at which a blue-print or sketch of the proposed system must be submitted to the Board which shall show distant signals at least 1,500 feet from the crossing (except where impracticable); home signals at the crossing, and throw-off switches (except where impracticable), all interlocked and operated from a tower.

Safety Devices.

(Section 50, Railroad Law.)

Application must be made by verified petition. Applications under this section will be considered under rules made for each case.

Cooking Stoves Used in Dining Cars.

(Section 51, Railroad Law.)

Application must be made by verified petition. In applications under this section for approval of cooking stoves in dining cars, the

Board must see the stove proposed to be used, or a blue print or sketch of it.

Cessation of Operation of Railroads during the Winter Months.

(Section 55, Railroad Law. See section 21, Railroad Law.)

Application must be made by verified petition. The Board will require notice of hearing on applications under this section to be advertised. Proof must be furnished that the road comes within the meaning of the section, and that the public interests will not suffer from the cessation of operations. If the application is granted, proof must be subsequently made that the order has been posted as required by section 55.

Fixing Compensation for Transportation of the Mails.

(Section 56, Railroad Law.)

Rules of procedure under this section will be formulated in each case.

Extension of Time in which to file Reports of Railroad Companies.

(Section 57, Railroad Law.)

Applications under this section must be accompanied by a statement of the reasons why an extension of time in which to file reports is necessary.

Certificate that Public Convenience and Necessity Requires the Construction of a New Railroad.

(Section 59, Railroad Law.)

Application must be made by verified petition. The Board requires:

First. Proof of the publication of the articles of association of the company as required by section 59.

Second. Public notice of the application and hearing before the Board must be published in such form and in such newspapers as the Board shall direct.

Third. At the hearing, proof must be made (by affidavit or oral evidence, or both) that public convenience and necessity require the construction of the railroad.

Fourth. A map and survey of the line as proposed must be filed with the Board, in the case of a steam railroad.

Fifth. Proof must be made of the *bona fides* of the enterprise, and of the financial ability of the projectors to build the road.

Consolidation or Lease of Parallel and Competing Steam Railroads.

(Section 80, Railroad Law.)

Application must be made by verified petition. Rules for the consideration of applications under this section will be established by the Board in each case.

As to Liability of Reorganized Railroad Company to Extend Its Road.

(Section 83, Railroad Law.)

Application must be made by verified petition. Rules for the consideration of applications under this section will be established by the Board in each case.

Motive Power of Street Railroads.

(Section 100, Railroad Law.)

Application must be made by verified petition. The Board requires:

First. Publication of notice of hearing on the application in such form and in such newspapers as the Board shall direct.

Second. At the hearing, affidavit or affidavits of an assessor or person connected with the taxing office or department in the locality, showing the total assessed value of the property bounded on that portion of the railroad with respect to which a change of motive power is proposed, and the value of the property the owners of which have consented to the use of the motive power, which must be at least one-half the total value of abutting property.

Third. In the case of new roads, proof of the consent of the local authorities to the construction of the road.

Use of Tracks of a Street Railroad.

(Section 102, Railroad Law.)

Rules for procedure under this section will be prescribed in each case.

Abandonment of Part of Route of a Street Surface Railroad.

(Section 103, Railroad Law.)

Application must be made by verified petition. The Board requires:

First. Two copies of the declaration of abandonment, adopted as required by the section.

Second. Notice of hearing on the application shall be published in such form and in such newspapers as the Board shall prescribe.

Third. Proof must be made by affidavit or oral evidence, or both, that the proportion of the route proposed to be abandoned is no longer necessary for the "successful operation of its road and convenience of the public."

Laying Street Railroad Track Across Steam Railroad Where There are Three or More Steam Railroad Tracks.

(Section 2, chapter 239, Laws 1893.)

Application must be made by verified petition. At the hearing the company making the application must furnish the Board with a map or sketch showing the crossing and the locality surrounding it.

Exemption and Extension of Time Under the Act Compelling Equipment of Freight Cars and Locomotive Engines with Power Brakes.

(Section 6, chapter 543, Laws 1893.)

Application must be made by verified petition. The Board will require to be filed with it the affidavit of the proper officer of the company (general superintendent or general manager), showing the total number of freight cars and engines owned or leased by the company at the date of the application; the number that are equipped with power brakes; the number equipped during the preceding year; and reasons why exemption or extension of time is asked.

Exemptions and Extensions of Time Under the Act Compelling the Equipment of Freight Cars with Automatic Couplers.

(Section 6, chapter 544, Laws 1893.)

Application must be made by verified petition. The Board will require to be filed with it the affidavit of the proper officer of the company (general superintendent or general manager), showing the total number of freight cars owned or leased by the company at the date of the application; the number that are equipped with automatic couplers, the number equipped during the preceding year; and reasons why exemption or extension of time is asked.

Change of Gauge of Railroads.

(Chapter 267, Laws 1891.)

Application must be made by verified petition. The Board will require proof that stockholders owning three fourth in amount of the capital stock of the company have voted at a special meeting called for that purpose in favor of changing the gauge of the railroad. Also such further information as it in each case shall designate.

Relative to Abandonment of Route by Elevated Railroads.

(Chapter 294, Laws 1891.)

Application must be made by verified petition. In applications under this act the Board will make rules in each case.

As to Lighting and Ventilating Tunnels.

(Chapter 360, Laws 1891.)

Rules for procedure under this act will be fixed in each case.

PROPOSED GRADE CROSSING ACT.

AN ACT to amend article two of the railroad law, relative to grade crossings.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Article two of chapter five hundred and sixty-five of the laws of eighteen hundred and ninety, entitled "An act in relation to railroads, constituting chapter thirty-nine of the general laws," known as the railroad law, as amended by chapter six hundred and seventy-six of the laws of eighteen hundred and ninety-two, is hereby amended by adding thereto the following sections:

§ 60. All steam surface railroads, except additional switches and sidings, hereafter built, must be so constructed as to avoid all public crossings at grade. Whenever application is made to the board of railroad commissioners under section fifty-nine of the railroad law, there shall be filed with said board a map showing the streets, avenues and highways proposed to be crossed by the new construction, and the said board shall determine whether such crossings shall be under or over the proposed railroad. Whenever an application is made under this section to determine the manner of crossing, the said board shall designate a time and place when and where a hearing will be given to such railroad company, and shall notify the municipal corporation having jurisdiction over such streets, avenues or highways proposed to be crossed by the new railroad. The said board shall also give public notice of such hearing in at least two newspapers, published in the locality affected by the application, and all persons owning land adjoining the proposed railroad or in the vicinity of the proposed crossings shall have the right to be heard. The decision of the said board rendered in any proceedings under this section shall be communicated, within twenty days after final hearing, to all parties to whom notice of the hearing in said proceedings was given, or who appeared at said hearing by counsel or in person.

§ 61. When a new street, avenue or highway, or new portion of a street, avenue or highway shall hereafter be constructed across a steam surface railroad, such street, avenue or highway, or por-

tion of such street, avenue or highway, shall pass over or under such railroad as the board of railroad commissioners shall direct. Notice of intention to lay out such street, avenue or highway, or new portion of a street, avenue or highway, across a steam surface railroad, shall be given to said railroad company by the municipal corporation, at least fifteen days prior to the making of the order laying out such street, avenue or highway by service personally on the president or vice-president of the railroad corporation, or any general officer thereof. Such notice shall designate the time and place and when and where a hearing will be given to such railroad company, and such railroad companies shall have the right to be heard before the authorities of such municipal corporation upon the question of the necessity of such highway. If the municipal corporation determines such highway to be necessary, it shall then apply to the board of railroad commissioners before any further proceedings are taken, to determine whether such street, avenue or highway, or new portion of such street, avenue or highway shall pass over or under such railroads, whereupon the said board of railroad commissioners shall appoint a time and place for hearing such application, and shall give notice thereof, as they judge reasonable, not, however, less than ten days, to the railroad company whose railroad is to be crossed by said new street, avenue or highway, or new portion of the street, avenue or highway, to the municipal corporation and to the owners of land joining the railroad and that part of the street, avenue or highway to be opened or extended. The said board of railroad commissioners shall determine whether such street, avenue or highway or new portion of a street, avenue or highway, shall be constructed over or under such railroad; and if said board determine that such street, avenue or highway shall be carried across such railroad above grade, then said board shall determine the height, the length and the material of the bridge or structure by means of which such street, avenue or highway shall be carried across such railroad, and the length, character and grades of the approaches thereto; and if said board shall determine that such street, avenue or highway shall be constructed or extended below the grade, said board shall determine the manner and method in which the same shall be so carried under, and the grade or grades thereof, before the damages that may be occasioned to any person by the taking of land for such highway are finally assessed. The decision of the said board as to the manner and method of carrying such new street, avenue or highway, or new portion of a street, avenue or highway, across such railroad, shall be final, subject, however, to the right of appeal hereinafter given. The decision of said board rendered in any proceedings under this section shall be communicated within twenty days after final hearing to all parties to whom notice of the hearings in such

proceeding was given or who appeared at such hearing by counsel or in person.

§ 62. The mayor and common council of the city, the president and trustees of any village, the town board of any town within which a street, avenue or highway crosses or is crossed by a stream surface railroad at grade, or the directors of any steam surface railroad company, whose road crosses or is crossed by a street, avenue or highway at grade, may bring their petition, in writing, to the board of railroad commissioners, therein alleging that public safety requires an alteration in the manner of such crossing, its approaches, the method of crossing, the location of the highway or crossing, the closing of a highway crossing and the substitution of another therefor not at grade, and praying that the same may be ordered; whereupon the said board of railroad commissioners shall appoint a time and place for hearing the petition, and shall give such personal notice thereof as they shall judge reasonable, of not less than ten days, however, to said petitioner, the railroad company, the municipality in which such crossing is situated, and to the owners of the lands adjoining such crossing and adjoining that part of the highway to be changed in grade or location, and shall cause notice of said hearing to be advertised in at least two newspapers published in the locality affected by the application; and after such notice of hearing, the said board of railroad commissioners shall determine what alterations or changes, if any, shall be made. The decision of the said board of railroad commissioners rendered in any proceeding under this section, shall be communicated within twenty days after final hearing to all parties to whom notice of the hearing in said proceeding was given, or who appeared at said hearing by counsel or in person. Any person aggrieved by such decision, or by a decision made pursuant to sections sixty and sixty-one hereof, and who was a party to said proceedings, may appeal therefrom to the appellate division of the supreme court in the department in which grade crossing is situated and to the court of appeals, in the same manner and with like effect as is provided in the case of appeals from an order of the supreme court.

§ 63. The railroad company or the municipality, if unable to acquire by purchase any lands, rights or easements necessary or required for the purpose of carrying out the provisions of sections sixty, sixty-one and sixty-two of this act, may acquire any such lands, rights or easements by condemnation under the condemnation law.

§ 64. When a highway crosses a railroad by an overhead bridge, the frame work of the bridge and its abutments shall be maintained and kept in repair by the railroad company, and the surface of the bridge and its approaches shall be maintained and kept in repair by the municipality in which the same are situated. When a high-

way passes under a railroad, the bridge and its abutments shall be maintained and kept in repair by the railroad company, and the public way and its approaches shall be maintained and kept in repair by the city, village or town in which they are situated.

§ 65. Whenever, under the provisions of section sixty of this act, new railroads are constructed across existing highways, the expense of crossing above or below the grade of the highway shall be paid entirely by the railroad corporations; whenever under the provisions of section sixty-one of this act a new street, avenue or highway is constructed across an existing railroad, the railroad corporation shall pay one-half and the municipal corporation wherein such street, avenue or highway is located, shall pay the remaining one-half of the expense of such crossings above or below grade; and whenever a change is made in an existing crossing in accordance with the provision of section sixty-two of this act, fifty per centum of the expense thereof should be borne by the railroad corporation, twenty-five per centum by the municipal corporation, and twenty-five per centum by the state. In carrying out the provisions of sections sixty, sixty-one and sixty-two of this act the work shall be done by the railroad corporations affected thereby, subject to the supervision of and approval of the board of railroad commissioners, and in all cases, except where the entire expense is paid by the railroad corporation, the expense of construction shall be paid primarily by the railroad company, and the expense of acquiring additional lands, rights or easements, as provided in section sixty-three of this act, shall be paid primarily by the municipal corporation wherein such highways are located. Upon the completion of the work and its approval by the board of railroad commissioners, an accounting shall be had between the railroad corporation and the municipal corporation, and if it shall appear that the railroad corporation or the municipal corporation have expended more than their proportion of the expense of the crossing as herein provided, a settlement shall be forthwith made in accordance with the provisions of this section. All items of expenditure shall be verified under oath, and, in case of a dispute between the railroad corporation and the municipal corporation as to the amount expended, any judge of the supreme court in the judicial district in which the municipality is situated, may appoint a referee to take testimony as to the amount expended, and the confirmation of the report of the referee shall be filed. In the event of the failure or refusal of the railroad corporation to pay its proportion of the expense, the same may be levied and assessed upon the railroad corporation and collected in the same manner that taxes and assessment are now collected by the municipal corporation within which the work is done; and in the event of the failure or refusal of the municipal corporation to pay its propor-

tion of the expense, suit may be instituted by the railroad corporation for the collection of the amount remaining unpaid. The legislature shall annually appropriate out of any moneys not otherwise appropriated, the sum of one hundred thousand dollars, or so much thereof as may be necessary, for the purpose of paying the state's proportion of the expense of any change in any existing grade crossing, and if any less sum than one hundred thousand dollars is expended by the state for the aforesaid purpose in any one year, the balance shall be applied to reduce the amount to be appropriated in the next succeeding year, but in no event shall the state expend a greater sum than one hundred thousand dollars in any one year. The state's proportion of the expense of changing any existing grade crossing shall be paid by the state treasurer on the warrant of the comptroller, to which shall be appended the certificate of the board of railroad commissioners to the effect that the work has been properly performed and the statement showing the situation of the crossing that has been changed, the total cost and the proportionate expense thereof, and the money shall be paid in whole or in part to the railroad corporation or to the municipal corporation, as the board of railroad commissioners may direct, subject, however, to the rights of the respective party as they appear from the accounting to be had as hereinbefore provided for.

§ 66. The railroad commissioners may, in the absence of any application therefore, when, in their opinion, public safety requires an alteration in an existing grade crossing, institute proceedings on their own motion for an alteration in such grade crossing, upon such notice as they shall deem reasonable, of not less than ten days, however, to the railroad company, the municipal corporation and the person or persons interested, and proceedings shall be conducted as provided in section sixty-two of this act. The changes in existing grade crossings authorized or required by the board of railroad commissioners in any one year shall be so distributed and apportioned over and among the railroads and the municipalities of the state as to produce such equality of burden upon them for their proportionate part of the expenses as herein provided for as the nature and circumstances of the case before them will permit.

§ 67. It shall be the duty of the corporation, municipality or person or persons to whom the decisions and recommendations of the board of railroad commissioners are directed, as provided in sections sixty, sixty-one, sixty-two and sixty-six of this act to comply with such decisions and recommendations, and in case of their failure so to do, the board shall present the facts in the case to the attorney-general, who shall thereupon take proceedings to compel obedience to the decisions and recommendations of the board of

railroad commissioners. The supreme court, at a special term, shall have the power in all cases of such decisions and recommendations by the board of railroad commissioners to compel compliance therewith by mandamus, subject to appeal to the appellate division of the supreme court and the court of appeals, in the same manner, and with like effect, as is provided in case appeals from any order of the supreme court.

§ 68. All street surface railroads hereafter constructed across a steam railroad shall be above, below or at the grade of such steam railroad as the board of railroad commissioners shall determine, and such board shall in such determination fix the proportion of expense of such crossing to be paid by the street surface railroad. When an existing grade crossing is to be changed to an overhead or an underground grade crossing pursuant to the provisions of section sixty-two or sixty-six of this article, and the highway is occupied in part by a street surface railroad, twenty-five per centum of the expenses of making such change shall be borne by the state, twenty-five per centum by the municipal corporation within whose limits the crossing is situated, and fifty per centum by said steam and street surface railroad companies, each to bear such proportion of said fifty per centum as shall be determined by the board of railroad commissioners, but the street surface railroad is only to be charged with such proportion of fifty per centum of the actual cost of the work within the limits of the street upon which its tracks are located.

§ 69. The provisions of this act shall apply to all existing or future steam surface railroads on which, after the passage of this act, electricity or some other agency than steam shall be substituted as a motive power.

§ 70. Sections sixty-one, sixty-two, sixty-three, sixty-four, sixty-five, sixty-six, sixty-seven and sixty-eight of this act shall not apply to crossings in the city of Buffalo under the jurisdiction of the grade crossing commissioners of that city.

§ 2. This act shall take effect immediately.

LAWS APPLICABLE TO RAILROAD COMPANIES.

[COMPILED BY THE BOARD OF RAILROAD COMMISSIONERS.]

**FIRST—CHAPTER 95, LAWS OF 1890, KNOWN AS THE
“CONDEMNATION LAW.”**

**SECOND—CHAPTER 563, LAWS OF 1890, KNOWN AS THE
“GENERAL CORPORATION LAW.”**

**THIRD—CHAPTER 564, LAWS OF 1890, KNOWN AS THE
“STOCK CORPORATION LAW.”**

**FOURTH—CHAPTER 565, LAWS OF 1890, KNOWN AS THE
“RAILROAD LAW.”**

**INCLUDING ALL AMENDMENTS TO SAID LAWS MADE BY
THE LEGISLATURES OF 1891, 1892, 1893, 1894, 1895 AND
1896. ALSO, OTHER GENERAL LAWS RELATING TO
RAILROADS. ALSO, SECTIONS OF THE CRIMINAL AND
PENAL CODES RELATING DIRECTLY TO RAILROADS.
ALSO, THE RAPID TRANSIT ACT. ALSO, THE INTER-
STATE COMMERCE ACT.**

THE CONDEMNATION LAW.

(Being chapter 95 of the Laws of 1890, as amended to and including the session of the Legislature of the year 1896.)

AN ACT to amend the Code of Civil Procedure.

CHAPTER XXIII OF THE CODE OF CIVIL PROCEDURE.

SUPPLEMENTAL PROVISIONS.

TITLE I.

PROCEEDINGS FOR THE CONDEMNATION OF REAL PROPERTY.

CONDEMNATION LAW.

SECTION 3357. This title shall be known as the condemnation law.

TERMS USED DEFINED.

§ 3358. The term "person," when used herein, includes a natural person and also a corporation, joint stock association, the state and a political division thereof, and any commission, board, board of managers or trustees in charge or having control of any of the charitable or other institutions of the state; the term "real property," any right, interest or easement therein or appurtenances thereto; and the term "owner," all persons having any estate, interest, or easement in the property to be taken, or any lien, charge, or incumbrance thereon. The person instituting the proceedings shall be termed the plaintiff; and the person against whom the proceeding is brought, the defendant. (*Thus amended by chap. 589, Laws of 1896.*)

TITLE TO REAL ESTATE, HOW ACQUIRED.

§ 3359. Whenever any person is authorized to acquire title to real property, for a public use by condemnation the proceeding for that purpose shall be taken in the manner prescribed in this title.

PETITION TO SUPREME COURT, SECTION 3360; THE PROCEEDING SHALL BE INSTITUTED BY THE PRESENTATION OF A PETITION BY THE PLAINTIFF TO THE SUPREME COURT SETTING FORTH THE FOLLOWING FACTS:

1. His name, place of residence, and the business in which engaged; if a corporation or joint-stock association, whether foreign or domestic, its principal place of business within the state, the names and places of residence of its principal officers, and of its directors, trustees or board of managers, as the case may be, and the object or purpose of its incorpo-

ration or association; if a political division of the state, the names and places of residence of its principal officers; and if the state or any commission or board of managers or trustees in charge or having control of any of the charitable or other institutions of the state, the name, place of residence of the officer acting in its or their behalf in the proceedings. (*Thus amended by chap. 589, Laws of 1896.*)

2. A specific description of the property to be condemned and its location, by metes and bounds, with reasonable certainty.

3. The public use for which the property is required and a concise statement of the facts showing the necessity of its acquisition for such use.

4. The names and places of residence of the owners of the property; if an infant, the name and place of residence of his general guardian, if he has one, if not, the name and place of residence of the person with whom he resides; if a lunatic, idiot, or habitual drunkard, the name and place of residence of his committee or trustee, if he has one, if not, the name and place of residence of the person with whom he resides. If a non-resident, having an agent or attorney residing in the state authorized to contract for the sale of the property, the name and place of residence of such agent or attorney; if the name or place of residence of any owner cannot, after diligent inquiry, be ascertained, it may be so stated with a specific statement of the extent of the inquiry which has been made.

5. That the plaintiff has been unable to agree with the owner of the property for its purchase and the reason of such inability.

6. The value of the property to be condemned.

7. A statement that it is the intention of the plaintiff, in good faith, to complete the work or improvement, for which the property is to be condemned; and that all the preliminary steps required by law have been taken to entitle him to institute the proceeding.

8. A demand for relief, that it may be adjudged that the public use requires the condemnation of the real property described, and that the plaintiff is entitled to take and hold such property for the public use specified, upon making compensation therefor, and that commissioners of appraisal be appointed to ascertain the compensation to be made to the owners for the property so taken.

NOTICE OF PRESENTATION OF PETITION; SERVICE OF PETITION AND NOTICE.

§ 3361. There must be annexed to the petition a notice of the time and place at which it will be presented to a special term of the

supreme court, held in the judicial district where the property or some portion of it is situated, and a copy of the petition and notice must be served upon all the owners of the property at least eight days prior to its presentation.

SERVICE, HOW MADE.

§ 3362. Service of the petition and notice must be made in the same manner as the service of a summons in an action in the supreme court is required to be made, and all the provisions of articles one and two of title one of chapter five of this act, which relate to the service of a summons, either personally or in any other way, and the mode of proving service, shall apply to the service of the petition and notice. If the defendant has an agent or attorney residing in this state, authorized to contract for the sale of the real property described in the petition, service upon such agent or attorney will be sufficient service upon such defendant. In case the defendant is an infant of the age of fourteen years or upwards, a copy of the petition and notice shall also be served upon his general guardian, if he has one, if not, upon the person with whom he resides.

DUTY OF GENERAL GUARDIAN, COMMITTEE OR TRUSTEE; COURT WHEN TO APPOINT GUARDIAN AD LITEM; WHEN ATTORNEY FOR DEFENDANT.

§ 3363. If a defendant is an infant, idiot, lunatic or habitual drunkard, it shall be the duty of his general guardian, committee or trustee, if he has one, to appear for him upon the presentation of the petition and attend to his interests, and in case he has none, or in case his general guardian, committee or trustee fails to appear for him, the court shall, upon the presentation of the petition and notice, with proof of service, without further notice, appoint a guardian ad litem for such defendant, whose duty it shall be to appear for him and attend to his interests in the proceeding, and, if deemed necessary to protect his rights, the court may require a general guardian, committee or trustee, or a guardian ad litem to give security in such sum and with such sureties as the court may approve. If a service other than personal has been made upon any defendant, and he does not appear upon the presentation of the petition, the court shall appoint some competent attorney to appear for him and attend to his interests in the proceeding.

APPEARANCE OF PARTIES; SERVICE OF PAPERS.

§ 3364. The provisions of law and of the rules and practice of the court relating to the appearance of parties in person or by

attorney in actions in the supreme court, shall apply to the proceeding from and after the service of the petition, and all subsequent orders, notices and papers may be served upon the attorney appearing and upon a guardian ad litem in the same manner and with the same effect as the service of papers in an action in the supreme court may be made.

ANSWER TO PETITION.

§ 3365. Upon the presentation of the petition and notice with proof of service thereof, an owner of the property may appear and interpose an answer, which must contain a general or specific denial of each material allegation of the petition controverted by him, or of any knowledge or information thereof sufficient to form a belief, or a statement of new matter constituting a defense to the proceeding.

VERIFICATION OF PETITION AND ANSWER.

§ 3366. A petition or answer must be verified, and the provisions of this act relating to the form and contents of the verification of pleadings in courts of record, and the persons by whom it may be made, shall apply to the verification.

TRIAL OF ISSUE AND DECISION THEREON.

§ 3367. The courts shall try any issue raised by the petition and answer at such time and place as it may direct, or it may order the same to be referred to a referee to hear and determine, and upon such trial the court or referee shall file a decision in writing, or deliver the same to the attorney for the prevailing party, within twenty days after the final submission of the proofs and allegations of the parties, and the provisions of this act relating to the form and contents of decisions upon the trial of issues of fact by the court or a referee, and to making and filing exceptions thereto, and the making and settlement of a case for the review thereof upon appeal, and to the proceedings which may be had, in case such decision is not filed or delivered within the time herein required, and to the powers of the court and referee upon such trial, shall be applicable to a trial and decision under this title.

PROVISIONS APPLICABLE

§ 3368. The provisions of title one of chapter eight of this act shall also apply to proceedings had under this title.

JUDGMENT, ENTRY OF ; ETC.

§ 3369. Judgment shall be entered pursuant to the direction of the court or referee in the decision filed. If in favor of the defendant

the petition shall be dismissed, with costs to be taxed by the clerk at the same rates as are allowed, of course, to a defendant prevailing in an action in the supreme court, including the allowances for proceedings before and after notice of trial. If the decision is in favor of the plaintiff, or if no answer has been interposed and it appears from the petition that he is entitled to the relief demanded, judgment shall be entered, adjudging that the condemnation of the real property described is necessary for the public use, and that the plaintiff is entitled to take and hold the property for the public use specified, upon making compensation therefor, and the court shall thereupon appoint three disinterested and competent freeholders, residents of the judicial district embracing the county where the real property, or some part of it, is situated, or of some county adjoining such judicial district, commissioners to ascertain the compensation to be made to the owners for the property to be taken for the public use specified, and fix the time and place for the first meeting of the commissioners. Provided, however, that in any such proceeding instituted within the first or second judicial district, such commissioners shall be residents of the county where the real property, or some part of it, is situated, or of some adjoining county. If a trial has been had, at least eight days' notice of such appointment must be given to all the defendants who have appeared. The parties may waive, in writing, the provisions of this section as to the residence of the commissioners, and in that case they may be residents of any county in the state. Where owners of separate properties are joined in the same proceeding, or separate properties of the same owner are to be condemned, more than one set of commissioners may be appointed. (*Thus amended by chap. 530, Laws of 1895.*)

DUTY OF COMMISSIONERS; REPORT; COMPENSATION.

§ 3370. The commissioners shall take and subscribe the constitutional oath of office. Any of them may issue subpoenas and administer oaths to witnesses; a majority of them may adjourn the proceedings before them, from time to time, in their discretion. Whenever they meet, except by appointment of the court or pursuant to adjournment, they shall cause at least eight days' notice of such meeting to be given to the defendants who have appeared, or their agents or attorneys. They shall view the premises described in the petition, and hear the proofs and allegations of the parties, and reduce the testimony taken by them, if any, to writing, and after the testimony in each case is closed, they, or a majority of them, all being present, shall, without unnecessary delay ascertain and determine

the compensation which ought justly to be made by the plaintiff to the owners of the property appraised by them; and, in fixing the amount of such compensation, they shall not make any allowance or deduction on account of any real or supposed benefits which the owners may derive from the public use, for which the property is to be taken, or the construction of any proposed improvement connected with such public use. But in case the plaintiff is a railroad corporation and such real property shall belong to any other railroad corporation, the commissioners on fixing the amount of such compensation, shall fix the same at its fair value for railroad purposes. They shall make a report of their proceedings to the supreme court with the minutes of the testimony taken by them, if any; and they shall each be entitled to six dollars for services, for every day they are actually engaged in the performance of their duties, and their necessary expenses, to be paid by the plaintiff.

As to condemning railroad property see section 7, Railroad Law, *post*.

CONFIRMATION OF REPORT; REHEARING BEFORE COMMISSIONERS FINAL ORDER; DEPOSIT OF MONEY DEEMED PAYMENT.

§ 3371. Upon filing the report of the commissioners, any party may move for its confirmation at a special term, held in the district where the property or some part of it is situated, upon notice to the other parties who have appeared, and upon such motion, the court may confirm the report, or may set it aside for irregularity, or for error of law in the proceedings before the commissioners, or upon the ground that the award is excessive or insufficient. If the report is set aside, the court may direct a rehearing before the same commissioners, or may appoint new commissioners for that purpose, and the proceedings upon such rehearing shall be conducted in the manner prescribed for the original hearing, and the same proceedings shall be had for the confirmation of the second report, as are herein prescribed for the confirmation of the first report. If the report is confirmed, the court shall enter a final order in the proceeding, directing that compensation shall be made to the owners of the property, pursuant to the determination of the commissioners, and that upon payment of such compensation, the plaintiff shall be entitled to enter into the possession of the property condemned, and take and hold it for the public use specified in the judgment. Deposit of the money to the credit of, or payable to the order of the owner, pursuant to the direction of the court, shall be deemed a payment within the provisions of this title.

OFFER TO PURCHASE BY PLAINTIFF; NOTICE OF ACCEPTANCE OF OFFER; COST AND ALLOWANCES.

§ 3372. In all cases where the owner is a resident and not under legal disability to convey title to real property the plaintiff, before service of his petition and notice, may make a written offer to purchase the property at a specified price, which must within ten days thereafter be filed in the office of the clerk of the county where the property is situated, and which can not be given in evidence before the commissioners; or considered by them. The owner may at the time of the presentation of the petition, or at any time previously, serve notice in writing of the acceptance of plaintiff's order, and thereupon the plaintiff may, upon filing the petition, with proof of the making of the offer and its acceptance, enter an order that upon payment of the compensation agreed upon, he may enter into possession of the real property described in the petition, and take and hold it for the public use therein specified. If the offer is not accepted, and the compensation awarded by the commissioners does not exceed the amount of the offer with interest from the time it was made, no costs shall be allowed to either party. If the compensation awarded shall exceed the amount of the offer with interest from the time it was made, or if no offer was made, the court shall, in the final order, direct that the defendant recover of the plaintiff the costs of the proceeding, to be taxed by the clerk at the same rate as is allowed, of course, to the defendant, when he is the prevailing party in an action in the supreme court, including the allowances for proceedings before and after notice of trial and the court may also grant an additional allowance of costs, not exceeding five per centum upon the amount awarded. The court shall also direct in the final order what sum shall be paid to the general or special guardian, or committee or trustee of an infant, idiot, lunatic or habitual drunkard, or to an attorney appointed by the court to attend to the interests of any defendant upon whom other than personal service of the petition and notice may have been made, and who has not appeared, for costs, expenses and counsel fees, and by whom or out of what fund the same shall be paid. If a trial has been had, and all the issues determined in favor of the plaintiff, costs of the trial shall not be allowed to the defendant, but the plaintiff shall recover of any defendant answering the costs of such trial caused by the interposition of the unsuccessful defense, to be taxed by the clerk at the same rate as is allowed to the prevailing party for the trial of an action in the supreme court.

COMPENSATION AWARDED, ETC., TO BE DOCKETED AS A JUDGMENT; DELIVERY OF POSSESSION; ISSUE OF WRIT OF ASSISTANCE.

§ 3373. Upon the entry of the final order, the same shall be attached to the judgment roll in the proceeding, and the amount directed to be paid, either as compensation to the owners, or for the costs or expenses of the proceeding, shall be docketed as a judgment against the person who is directed to pay the same, and it shall have all the force and effect of a money judgment in an action in the supreme court, and collection thereof may be enforced by execution and by the same proceedings as judgments for the recovery of money in the supreme court may be enforced under the provisions of this act. When payment of the compensation awarded, and costs of the proceeding, if any, has been made, as directed in the final order, and a certified copy of such order has been served upon the owner, he shall upon demand of the plaintiff, deliver possession thereof to him, and in case possession is not delivered when demanded, the plaintiff may apply to the court without notice, unless the court shall require notice to be given, upon proof of such payment and of service of the copy order, and of the demand and non-compliance therewith, for a writ of assistance, and the court shall thereupon cause such writ to be issued, which shall be executed in the same manner as when issued in other cases for the delivery of possession of real property.

ABANDONMENT AND DISCONTINUANCE OF PROCEEDING.

§ 3374. Upon the application of the plaintiff to be made at any time after the presentation of the petition and before the expiration of thirty days after the entry of the final order, upon eight days' notice of motion to all other parties to the proceeding who have appeared therein or upon an order to show cause, the court may, in its discretion, and for good cause shown, authorize and direct the abandonment and discontinuance of the proceeding, upon payment of the fees and expenses, if any, of the commissioners, and the costs and expenses directed to be paid in such final order, if such final order shall have been entered, and upon such other terms and conditions as the court may prescribe; and upon the entry of the order granting such application and upon compliance with the terms and conditions therein prescribed, payment of the amount awarded for compensation, if such compensation shall have been theretofore awarded, shall not be enforced, but in such case, if such abandonment and discontinuance of the proceeding be directed upon the application of the plaintiff, the

order granting such application, if permitting a renewal of such proceedings, shall provide that proceedings to acquire title to such lands or any part thereof shall not be renewed by the plaintiff without a tender or deposit in court of the amount of the award and interest thereon. (*Thus amended by chap. 475, Laws 1894.*)

APPEAL FROM FINAL ORDER ; STAY OF PROCEEDINGS.

§ 3375. Appeal may be taken to the general term of the supreme court from the final order, within the time provided for appeals from orders by title four of chapter twelve of this act; and all the provisions of such chapter relating to appeals to the general term from orders of the special term shall apply to such appeals. Such appeal will bring up for review all the proceedings subsequent to the judgment, but the judgment and proceedings antecedent thereto may be reviewed on such appeal, if the appellant states in his notice that the same will be brought up for review, and exceptions shall have been filed to the decision of the court or the referee, and a case or a case and exceptions shall have been made, settled and allowed, as required by the provisions of this act, for the review of the trial of actions in the supreme court without a jury. The proceedings of the plaintiff shall not be stayed upon such an appeal, except by order of the court, upon notice to him, and the appeal shall not affect his possession of the property taken, and the appeal of a defendant shall not be heard except on his stipulation not to disturb such possession.

APPEAL FROM JUDGMENT IN FAVOR OF DEFENDANT.

§ 3376. If a trial has been had and judgment entered in favor of the defendant, the plaintiff may appeal therefrom to the general term within the time provided for appeals from judgments by title four of chapter twelve of this act, and all the provisions of such chapter relating to appeals from judgments shall apply to such appeals; and on the hearing of the appeal the general term may affirm, reverse or modify the judgment, and in case of reversal may grant a new trial, or direct that judgment be entered in favor of the plaintiff. If the judgment is affirmed, costs shall be allowed to the respondent, but if reversed or modified, no costs of the appeal shall be allowed to either party.

NEW APPRAISAL.

§ 3377. On the hearing of the appeal from the final order the court may direct a new appraisal before the same or new commis-

sioners in its discretion, and the report of such commissioners shall be final and conclusive upon all parties interested. If the amount of the compensation to be paid is increased by the last report, the difference shall be a lien upon the land appraised, and shall be paid to the parties entitled to the same, or shall be deposited as the court shall direct; and if the amount is diminished, the difference shall be refunded to the plaintiff by the party to whom the same may have been paid, and judgment therefor may be rendered by the court, on the filing of the last report, against the parties liable to pay the same.

ADVERSE AND CONFLICTING CLAIMANTS TO MONEY.

§ 3378. If there are adverse and conflicting claimants to the money, or any part of it, to be paid as compensation for the property taken, the court may direct the money to be paid into the court by the plaintiff, and may determine who is entitled to the same, and direct to whom the same shall be paid, and may, in its discretion, order a reference to ascertain the facts on which such determination and direction are to be made.

POWER OF COURT TO PREVENT DISTURBANCE OF POSSESSION.

§ 3379. At any stage of the proceeding the court may authorize the plaintiff, if in possession of the property sought to be condemned, to continue in possession, and may stay all actions or proceedings against him on account thereof, upon giving security, or depositing such sum of money as the court may direct to be held as security for the payment of the compensation which may be finally awarded to the owner therefor and the costs of the proceeding, and in every such case the owner may conduct the proceeding to a conclusion, if the plaintiff delays or neglects to prosecute the same.

ENTRY UPON AND USE OF PROPERTY AFTER ANSWER HAS BEEN INTERPOSED.

§ 3380. When an answer to the petition has been interposed, and it appears to the satisfaction of the court that the public interests will be prejudiced by delay, it may direct that the plaintiff be permitted to enter immediately upon the real property to be taken, and devote it temporarily to the public use specified in the petition, upon depositing with the court the sum stated in the answer as the value of the property, and which sum shall be applied, so far as it may be necessary for that purpose, to the payment of the award that may be made, and the costs and expenses of the proceeding, and the resi-

due, if any, returned to the plaintiff, and in case the petition should be dismissed, or no award should be made, or the proceedings should be abandoned by the plaintiff, the court shall direct that the money so deposited, so far as it may be necessary, shall be applied to the payment of any damages which the defendant may have sustained by such entry upon and use of his property, and his costs and expenses of the proceeding, such damages to be ascertained by the court, or a referee to be appointed for that purpose, and if the sum so deposited shall be insufficient to pay such damages, and all costs and expenses awarded to the defendant, judgment shall be entered against the plaintiff for the deficiency, to be enforced and collected in the same manner as a judgment in the supreme court; and the possession of the property shall be restored to the defendant.

**NOTICE OF PENDENCY OF PROCEEDINGS; EFFECT THEREOF;
DUTY OF COUNTY CLERK.**

§ 3381. Upon service of the petition, or at any time afterwards before the entry of the final order, the plaintiff may file in the clerk's office of each county where any part of the property is situated, a notice of the pendency of the proceeding, stating the name of the parties, and the object of the proceeding, and containing a brief description of the property affected thereby, and from the time of filing such notice shall be constructive notice to a purchaser, or incumbrancer of the property affected thereby, from or against a defendant with respect to whom the notice is directed to be indexed as herein prescribed, and a person whose conveyance or incumbrance is subsequently executed or subsequently recorded is bound by all proceedings taken in the proceeding after the filing of the notice to the same extent as if he was a party thereto. The county clerk must immediately record such notice when filed in the book in his office kept for the purpose of recording notices of pendency of actions, and index it to the name of each defendant specified in the direction appended at the foot of the notice, and subscribed by the plaintiff or his attorney.

POWER OF COURT TO MAKE ALL NECESSARY ORDERS, ETC.

§ 3382. In all proceedings under this title, where the mode or manner of conducting all or any of the proceedings therein is not expressly provided for by law, the court before whom such proceedings may be pending, shall have the power to make all necessary orders and give necessary directions to carry into effect the object and intent of this title, and of the several acts conferring authority to

condemn lands for public use, and the practice in such cases shall conform, as near as may be, to the ordinary practice in such court.

REPEAL.

§ 3383. So much of all acts and parts of acts as prescribe a method of procedure in proceedings for the condemnation of real property for a public use is repealed, except such acts and parts of acts as prescribe a method of procedure for the condemnation of real property for public use as a highway, or as a street, avenue, or public place in an incorporated city or village, or as may prescribe methods of procedure for such condemnation for any public use for, by, on behalf, on the part, or in the name of the corporation of the city of New York, known as the mayor, aldermen, and commonalty of the city of New York, or by whatever name known, or by or on the application of any board, department, commissioners or other officers acting for or on behalf or in the name of such corporation or city, or where the title to the real property so to be acquired vests in such corporation or in such city; and all proceedings for the condemnation of real property embraced within the exceptions enumerated in this section are exempted from the operation of this title. (*Thus amended by chap. 247, Laws of 1890.*)

TITLE, WHEN TO TAKE EFFECT.

§ 3384. This title shall take effect on the first day of May, one thousand eight hundred and ninety, and shall not affect any proceeding previously commenced.

TITLE II.

PROCEEDINGS FOR THE SALE OF CORPORATE REAL PROPERTY.

PROCEEDING ON APPLICATION TO SELL, MORTGAGE, ETC., PROPERTY.

SECTION 3390. Whenever any corporation or joint stock association is required by law to make application to the court for leave to mortgage, lease or sell its real estate, the proceeding therefor shall be had pursuant to the provisions of this title.

PETITION TO COURT; PETITION, WHAT TO CONTAIN; VERIFICATION.

§ 3391. The proceeding shall be instituted by the presentation to the supreme court of the district or the county court of the county where the real property, or some part of it, is situated, by

the corporation or association, applicant, of a petition setting forth the following facts:

1. The name of the corporation or association, and of its directors, trustees or managers, and of its principal officers, and their places of residence.

2. The business of the corporation or association, or the object or purpose of its incorporation or formation, and a reference to the statute under which it was incorporated or formed.

3. A description of the real property to be sold, mortgaged or leased, by metes and bounds, with reasonable certainty.

4. That the interest of the corporation or association will be promoted by the sale, mortgage or lease, of the real property specified, and a concise statement of the reasons therefor.

5. That such sale, mortgage or lease has been authorized, by a vote of at least two-thirds of the directors, trustees or managers of the corporation or association, at a meeting thereof, duly called and held, and a copy of the resolution granting such authority.

6. The market value of the remaining real property of the corporation or association, and the cash value of its personal assets, and the total amount of its debts and liabilities, and how secured, if at all.

7. The application proposed to be made of the moneys realized from such sale, mortgage or lease.

8. Where the consent of the shareholders, stockholders or members of the corporation or association, is required by law to be first obtained, a statement that such consent has been given, and a copy of the consent or a certified transcript of the record of the meeting at which it was given shall be annexed to the petition.

9. A demand for leave to mortgage, lease or sell the real estate described.

The petition shall be verified in the same manner as a verified pleading in an action in a court of record.

HEARING OF APPLICATION.

§ 3392. Upon presentation of the petition, the court may immediately proceed to hear the application, or it may, in its discretion, direct that notice of the application shall be given to any person interested therein, as a member, stockholder, officer or creditor of the corporation or association, or otherwise, in which case the application shall be heard at the time and place specified in such notice, and the court may in any case appoint a referee to take the proofs and report the same to the court, with his opinion thereon.

COURT MAY GRANT APPLICATION ; APPEARANCE ON HEARING.

§ 3393. Upon the hearing of the application, if it shall appear, to the satisfaction of the court, that the interests of the corporation or association will be promoted thereby, an order may be granted authorizing it to sell, mortgage or lease the real property described in the petition, or any part thereof, for such sum, and upon such terms as the court may prescribe, and directing what disposition shall be made of the proceeds of such sale, mortgage or lease.

Any person, whose interests may be affected by the proceeding, may appear upon the hearing and show cause why the application should not be granted.

NOTICE TO CREDITORS ON APPLICATION OF INSOLVENT CORPORATION, ETC.

§ 3394. If the corporation or association is insolvent, or its property and assets are insufficient to fully liquidate its debts and liabilities, the application shall not be granted, unless all the creditors of the corporation have been served with a notice of the time and place at which the application will be heard.

SERVICE OF NOTICES.

§ 3395. Service of notices, provided for in this title, may be made either personally or, in case of absence, by leaving the same at the place of residence of the person to be served, with some person of mature age and discretion, at least eight days before the hearing of the application, or by mailing the same, duly enveloped and addressed and postage paid, at least sixteen days before such hearing.

POWER OF COURT TO MAKE ALL NECESSARY ORDERS.

§ 3396. In all applications made under this title, where the mode or manner of conducting any or all of the proceedings thereon are not expressly provided for, the court before whom such application may be pending, shall have the power to make all the necessary orders and give the proper directions to carry into effect the object and intent of this title, or of any act authorizing the sale of corporate real property, and the practice in such cases shall conform, as near as may be, to the ordinary practice in such court.

TITLE, WHEN TO TAKE EFFECT.

§ 3397. This title shall take effect May first, one thousand eight hundred and ninety, and shall not affect any proceeding previously commenced.

Proceedings to Change the Name of a Corporation.

UNDER CODE OF CIVIL PROCEDURE.

PETITION BY CORPORATION.

§ 2411. A petition to assume another corporate name may be made by a domestic corporation, whether incorporated by a general or special law, to the supreme court at a special term thereof, held in the judicial district in which its principal business office shall be situated, or, if it be other than a stock corporation, at a special term, held in the judicial district in which its certificate of incorporation is filed or recorded, or in which its principal property is situated, or in which its principal operations are or theretofore have been conducted. If it be a banking, insurance or railroad corporation, the petition must be authorized by a resolution of the directors of the corporation, and approved, if a banking corporation by the superintendent of banks; if an insurance corporation, by the superintendent of insurance, and if a railroad corporation, by the board of railroad commissioners. The petition to change the name of any other corporation must have annexed thereto a certificate of the secretary of state, that the name which such corporation proposes to assume is not the name of any other domestic corporation or a name which he deems so nearly resembling it, as to be calculated to deceive. (*Thus amended by chap. 366, Laws 1893.*)

CONTENTS OF PETITION.

§ 2412. The petition must be in writing, signed by the petitioner and verified in like manner as a pleading in a court of record, and must specify the grounds of the application, the name, age and residence of the individual whose name is proposed to be changed, and the name which he proposes to assume, and if the petitioner be a corporation, its present name, and the name it proposes to assume, which must not be the name of any other corporation, or a name so nearly resembling it as to be calculated to deceive; and if it be a railroad corporation, a corporation having banking powers or the power to make loans upon pledges or deposits, or to make insurances, that the petition has been duly authorized by a resolution of the directors of the corporation and approved by the proper officer. (*Thus amended by chap. 366, Laws 1893.*)

NOTICE OF PRESENTATION OF PETITION.

§ 2413. If the petition be to change the name of an infant, and is made by the infant's next friend, notice of the time and place at which the petition will be presented must be served upon the father, or if he is dead or cannot be found, upon the mother, or if both are dead or cannot be found, upon the general guardian or guardian of the person of the infant, in like manner as a notice of a motion upon an attorney in an action, unless it appears to the satisfaction of the court that the infant has no father or mother, or that both reside without the state or cannot be found, and that he has no guardian residing within this state, in which case the court may dispense with notice or require notice to be given to such persons and in such manner as the court thinks proper. If the petition be made by a corporation located elsewhere than in the city and county of New York, notice of the presentation thereof shall be published once in each week for six successive weeks in the state paper (at Albany in which notices by state officers are authorized by law to be published), and in a newspaper of every county in which such corporation shall have a business office, or if it has no business office, of the county in which its principal corporate property is situated or in which its operations are or theretofore have been principally conducted, which newspaper, if it be a banking corporation, shall be designated by the superintendent of banks, if an insurance corporation, by the superintendent of insurance, or if a railroad corporation, by the railroad commissioners. In the city and county of New York such notice shall be published once in each week for six successive weeks in two daily newspapers published in such county. (*Thus amended by chap. 264, Laws 1894.*)

ORDER.

§ 2414. If the court to which the petition is presented is satisfied thereby, or by the affidavit and certificate presented therewith, that the petition is true, and that there is no reasonable objection to the change of name proposed, and if the petition be to change the name of an infant, that the interests of the infant will be substantially promoted by the change, and, if the petitioner be a corporation, that the petition has been duly authorized and that notice of the presentation of the petition, if required by law, has been made, the court shall make an order authorizing the petitioner to assume the name proposed on a day specified therein, not less than thirty days after the entry of the order. The order shall be directed to be entered and the papers on which it was granted to be filed within ten

days thereafter in the clerk's office of the county in which the petitioner resides if he be an individual, or in the office of the clerk of the court of common pleas of the city and county of New York if the order be made by that court, or in the office of the clerk of the city court of New York if the order be made by that court, or, if the petitioner be a corporation, in the office of the clerk of the county in which its certificate of incorporation, if any, shall be filed, or if there be none filed, in which its principal office shall be located, or if it has no business office, in the county in which its principal property is situated, or in which its operations are or theretofore have been principally conducted, or in the office of the clerk of the county in which the special term granting the order is held; and if the petitioner be a corporation, that a certified copy of such order shall, within ten days after the entry thereof, be filed in the office of the secretary of state; and also, if it be a banking corporation, in the office of the superintendent of banks, or if it be an insurance corporation, in the office of the superintendent of insurance, or if it be a railroad corporation, in the office of the board of railroad commissioners. Such order shall also direct the publication, within ten days after the entry thereof of a copy thereof in a designated newspaper, in the county in which the order is directed to be entered, at least once if the petitioner be an individual, or if the petitioner be a corporation, once in each week for four successive weeks. The county clerk, in whose office an order changing the name of a corporation is entered, shall record the same at length in the book kept in his office for recording certificates of incorporation. (*Thus amended by chap. 366, Laws 1893.*)

WHEN CHANGE TO TAKE EFFECT.

§ 2415. If the order shall be fully complied with, and within forty days after the making of the order, an affidavit of the publication thereof shall be filed and recorded in the office in which the order is entered, and in each office in which certified copies thereof are required to be filed, if any, the petitioner shall, on and after the day specified for that purpose in the order, be known by the name which is thereby authorized to be assumed, and by no other name. No proceedings heretofore had under sections two thousand four hundred and fourteen and two thousand four hundred and fifteen of the code of civil procedure for the change of the name of a corporation, shall be invalid by reason of the non-filing of an affidavit of the publication of the order changing such name within twenty days from the date thereof. (*Thus amended by chap. 264, Laws 1894.*)

SUBSTITUTION OF NEW NAME IN PENDING ACTION OR PROCEEDING.

§ 2416. An action or special proceeding, civil or criminal, commenced by or against a person whose name is so changed shall not abate, nor shall any relief, recovery or other proceeding therein be prevented, impeded or impaired in consequence of such change of name. The plaintiff in the action or the party instituting the special proceeding, or the people, as the case requires, may, at any time, obtain an order amending any of the papers or proceedings therein, by the substitution of the new name, without costs and without prejudice to the action or proceeding. (*Thus amended by chap. 366, Laws 1893.*)

REPORTS BY CLERKS TO STATE OFFICERS.

§ 2417. The clerk of each county and of each court, shall annually, in the month of December, report to the secretary of state all changes of names of individuals or of corporations, which have been made in pursuance of orders filed in their respective offices during the past year and since the last previous report, and also report in like manner to the superintendent of banks all changes of the names of banking corporations, and to the superintendent of insurance all changes of names of corporations authorized to make insurances. The secretary of state must cause to be published, in the next volume of the session laws, a tabular statement showing the original name of each person and corporation and the name which he or it has been authorized to assume. (*Thus amended by chap. 366, Laws 1893.*)

The General Corporation Law.

CHAP. 563, LAWS OF 1890.

AN ACT in relation to corporations, constituting chapter thirty-five of the general laws.

(As amended to and including the session of the Legislature of 1896.)

THE GENERAL CORPORATION LAW.

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5. Filing and recording certificates of incorporation.
6. Corporations of the same name prohibited.
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38. When notice or lapse of time unnecessary.
39. As to acts of directors.
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SHORT TITLE

SECTION 1. This chapter shall be known as the general corporation law.

CLASSIFICATION OF CORPORATIONS.

§ 2. A corporation shall be either,

1. A municipal corporation,
2. A stock corporation,
3. A non-stock corporation, or
4. A mixed corporation.

A stock corporation shall be either,

1. A moneyed corporation,
2. A transportation corporation, or
3. A business corporation.

A non-stock corporation shall be either,

1. A religious corporation, or
2. A membership corporation.

A mixed corporation shall be either,

1. A cemetery corporation,
2. A library corporation,
3. A co-operative corporation,
4. A board of trade corporation, or
5. An agricultural and horticultural corporation.

A transportation corporation shall be either,

1. A railroad corporation, or
2. A transportation corporation other than a railroad corporation.

A membership corporation shall include benevolent orders and fire and soldiers' monument corporations.

A reference in a general law to a class of corporations described in accordance with this classification shall include all corporations theretofore formed belonging to such class.

DEFINITIONS.

§ 3. 1. A municipal corporation includes a county, town, school district, village and city, and any other territorial division of the State, established by law with powers of local government.

2. A stock corporation is a corporation having a capital stock divided into shares, and which is authorized by law to distribute to the holders thereof dividends or shares of the surplus profits of the corporation. A corporation is not a stock corporation because of having issued certificates called certificates of stock, but which are in fact merely certificates of membership and which is not authorized by law to distribute to its members any dividends or share of profits arising from the operations of the corporation.

3. The term non-stock corporation includes every corporation other than a stock corporation.

4. A moneyed corporation is a corporation formed under or subject to the banking or the insurance law.

5. A domestic corporation is a corporation incorporated by or under the laws of the state or colony of New York. Every corporation which is not a domestic corporation is a foreign corporation, except as provided by the code of civil procedure for the purpose of construing such code.

6. The term directors, when used in relation to corporations, shall include trustees or other persons, by whatever name known, duly appointed or designated to manage the affairs of the corporation.

7. The term, certificate of incorporation, shall include articles of association or any other written instruments required by law to be filed, to effect the incorporation of a corporation, including a certified copy of an original certificate of incorporation filed for such purpose in pursuance of law.

8. The term, member of a corporation, shall include every person having a right to vote at a meeting of the corporation for the election of directors, other than a person having a right to vote only upon a proxy.

9. The term, office of a corporation, means its principal office within the state or principal place of business within the state, if it has no principal office therein.

10. The term, business of a corporation, when used with reference to a non-stock corporation, includes the operations for the conduct of which it is incorporated.

11. The term, corporate law or laws, when used in any law forming a part of the revision of the general laws of the state of which this chapter is a part, means the general laws of this state relating to corporations included in such revision. (*Thus amended by chap. 672, Laws of 1895.*)

QUALIFICATIONS OF INCORPORATORS.

§ 4. A certificate of incorporation must be executed by natural persons, who must be of full age, and at least two-thirds of them must be citizens of the United States and one of them a resident of this State. This section shall not apply to a corporation formed by the reincorporation or consolidation of existing corporations, or to the reorganization of a corporation upon the sale of the property and franchises of a previously existing corporation or otherwise. (*Thus amended by chap. 672, Laws of 1895.*)

FILING AND RECORDING CERTIFICATES OF INCORPORATION.

§ 5. Every certificate of incorporation and amended or supplemental certificate hereafter executed shall be in the English language, and except of a religious, cemetery, moneyed, municipal or fire department corporation, shall be filed in the office of the secretary of state, and shall be by him duly recorded and indexed in books specially provided therefor; and a certified copy of such certificate or amended or supplemental certificate with a certificate of the secretary of state of such filing and record, or a duplicate original of such certificate or amended or supplemental certificate shall be filed and similarly recorded and indexed in the office of the clerk of the county in which the office of the corporation is to be located, or, if it be a non-stock corporation, and such county be not determined upon at the time of executing the certificate of incorporation, in such county clerk's office as the judge approving the certificate shall direct. All taxes required by law to be paid before or upon incorporation, and the fees for filing and recording such certificate must be paid before filing. No corporation shall exercise any corporate powers or privileges until such taxes and fees have been paid. (*Thus amended by chap. 672, Laws of 1895.*)

CORPORATE NAMES.

§ 6. No certificate of incorporation of a proposed corporation having the same name as an existing domestic corporation, or a name so nearly resembling it as to be calculated to deceive, shall be filed or recorded in any office for the purpose of effecting its incorporation. A corporation formed by the reincorporation, reorganization or consolidation of other corporations or upon the sale of the property or franchises of a corporation, may have the same name as the corporation or one of the corporations to whose franchises it has succeeded. No corporation shall be hereafter organized under the laws of this State with the word bank, in-

surance, indemnity, guarantee or benefit as part of its name, except a corporation formed under the banking law or the insurance law. (*Thus amended by chap. 672, Laws of 1895.*)

AMENDED AND SUPPLEMENTAL CERTIFICATES.

§ 7. If in the original or amended certificate of incorporation of any corporation, or if in a supplemental certificate of any corporation any informality exist, or if any such certificate contain any matter not authorized by law to be stated therein, or if the proof or acknowledgment thereof shall be defective, the incorporators or directors of the corporation may make and file an amended certificate correcting such informality or defect or striking out such unauthorized matter; and the certificate amended shall be deemed to be amended accordingly as of the date such amended certificate was filed, and upon the filing of such an amended certificate of incorporation, the corporation shall then for all purposes be deemed to be a corporation from the time of filing the original certificate.

The supreme court may, upon due cause shown, and proof made, and upon notice to the attorney-general, and to such other persons as the court may direct, and upon such terms and conditions as it may impose, amend any certificate of incorporation which fails to express the true object and purpose of the corporation, so as to truly set forth such object and purpose.

When an amended or supplemental certificate is filed, an entry shall be made upon the margin of the index and record of the original certificate of the date and place of record of every such amended certificate.

The amendment of a certificate under this section shall be without prejudice to any pending action or proceeding, or to any rights previously accrued.

LOST OR DESTROYED CERTIFICATES.

§ 8. If either of the certificates of incorporation shall be lost or destroyed after filing, a certified copy of the other certificate may be filed in the place of the one so lost or destroyed and as of the date of its original filing, and such certified copy shall have the same force and effect as the original certificate had when filed.

CERTIFICATE AND OTHER PAPERS AS EVIDENCE.

§ 9. The certificate of incorporation of any corporation duly filed shall be presumptive evidence of its incorporation, and any amended certificate or other paper duly filed or recorded relating to the

incorporation of any corporation, or its existence or management, and containing facts required or authorized by law to be stated therein, shall be presumptive evidence of the existence of such facts. (*Thus amended by chap. 672, Laws of 1895.*)

LIMITATION OF POWERS.

§ 10. No corporation shall possess or exercise any corporate powers not given by law, or not necessary to the exercise of the powers so given. The certificate of incorporation of any corporation may contain any provision for the regulation of the business and the conduct of the affairs of the corporation, and any limitation upon its powers, or upon the powers of its directors and stockholders, which does not exempt them from the performance of any obligation or the performance of any duty imposed by law. (*Thus amended by chap. 672, Laws of 1895.*)

GRANT OF GENERAL POWERS.

§ 11. Every corporation as such has power, though not specified in the law under which it is incorporated:

1. To have succession for the period specified in its certificate of incorporation or by law, and perpetually when no period is specified.

2. To have a common seal, and alter the same at pleasure.

3. To acquire by grant, gift, purchase, devise or bequest, to hold and to dispose of such property as the purposes of the corporation shall require, subject to such limitations as may be prescribed by law.

4. To appoint such officers and agents as its business shall require, and to fix their compensation, and

5. To make by-laws, not inconsistent with any existing law, for the management of its property, the regulations of its affairs, and the transfer of its stock, if it has any, and the calling of meetings of its members. Such by-laws may also fix the amount of stock, which must be represented at meetings of the stockholders in order to constitute a quorum, unless otherwise provided by law. By-laws duly adopted at a meeting of the members of a corporation shall control the action of its directors. No by-law adopted by the board of directors regulating the election of directors or officers shall be valid unless published for at least once a week for two successive weeks in a newspaper in the county where the election is to be held, and at least thirty days before such election. Subdivisions four and five of this section shall not apply to municipal corporations. (*Thus amended by chap. 672, Laws of 1895.*)

ENLARGEMENT OF LIMITATIONS UPON THE AMOUNT OF THE PROPERTY OF NON-STOCK CORPORATIONS.

§ 12. If any general or special law heretofore passed, or any certificate of incorporation, shall limit the amount of property a corporation other than a stock corporation may take or hold, such corporation may take and hold property of the value of three million dollars or less, or the yearly income derived from which shall be five hundred thousand dollars or less, notwithstanding any such limitations. In computing the value of such property, no increase in value arising otherwise than from improvements made thereon shall be taken into account. (*Thus amended by chap. 400, Laws 1894.*)

ACQUISITION OF ADDITIONAL REAL PROPERTY.

§ 13. When any corporation shall have sold or conveyed any part of its real property, the supreme court may, notwithstanding any restriction of a general or special law, authorize it to purchase and hold from time to time other real property, upon satisfactory proof that the value of the property so purchased does not exceed the value of the property so sold and conveyed within the three years next preceding the application.

ACQUISITION OF PROPERTY IN OTHER STATES.

§ 14. Any domestic corporation transacting business in other states or foreign countries may acquire and dispose of such property as shall be requisite for such corporation in the convenient transaction of its business.

CERTIFICATE OF AUTHORITY OF A FOREIGN CORPORATION.

§ 15. No foreign stock corporation other than a moneyed corporation, shall do business in this state without having first procured from the secretary of state a certificate that it has complied with all the requirements of law to authorize it to do business in this state, and that the business of the corporation to be carried on in this state is such as may be lawfully carried on by a corporation incorporated under the laws of this state for such or similar business, or, if more than one kind of business, by two or more corporations so incorporated for such kinds of business respectively. The secretary of state shall deliver such certificate to every such corporation so complying with the requirements of law. No such corporation now doing business in this state shall do business herein after December 31, 1892, without having procured such certificate from the secretary of state, but any lawful contract previously made by the corporation may be performed and enforced within the state subsequent to such

date. No foreign stock corporation doing business in this state without such certificate shall maintain any action in this state upon any contract made by it in this state until it shall have procured such certificate.

PROOF TO BE FILED BEFORE GRANTING CERTIFICATE

§ 16. Before granting such certificate the secretary of state shall require every such foreign corporation to file in his office a sworn copy in the English language of its charter or certificate of incorporation and a statement under its corporate seal particularly setting forth the business or objects of the corporation which it is engaged in carrying on or which it proposes to carry on within the state, and a place within the state which is to be its principal place of business, and designating in the manner prescribed in the code of civil procedure a person upon whom process against the corporation may be served within the state. The person so designated must have an office or place of business at the place where such corporation is to have its principal place of business within the state. Such designation shall continue in force until revoked by an instrument in writing designating in like manner some other person upon whom process against the corporation may be served in this state. If the person so designated dies or removes from the place where the corporation has its principal place of business within the state, and the corporation does not within thirty days after such death or removal designate in like manner another person upon whom process against it may be served within the state, the secretary of state may revoke the authority of the corporation to do business within the state, and process against the corporation in an action upon any liability incurred within this state before such revocation, may, after such death or removal, and before another designation is made, be served upon the secretary of state. At the time of such service the plaintiff shall pay to the secretary of state two dollars, to be included in his taxable costs and disbursements, and the secretary of state shall forthwith mail a copy of such notice to such corporation if its address, or the address of any officer thereof is known to him. (*Thus amended by chap. 672, Laws of 1895.*)

ACQUISITION OF REAL PROPERTY IN THIS STATE BY CERTAIN FOREIGN CORPORATIONS.

§ 17. Any foreign corporation created under the laws of the United States, or of any state or territory thereof, and doing business in this State, may acquire such real property in this state as

may be necessary for its corporate purposes in the transaction of its business in this state, and convey the same by deed or otherwise in the same manner as a domestic corporation.

ACQUISITION BY FOREIGN CORPORATIONS OF REAL PROPERTY IN THIS STATE.

§ 18. Any foreign corporation may purchase at a sale upon the foreclosure of any mortgage held by it, or, upon any judgment or decree for debts due it, or, upon any settlement to secure such debts, any real property within this state covered by or subject to such mortgage, judgment, decree or settlement, and may take by devise any real property situated within this state and hold the same for not exceeding five years from the date of such purchase, or from the time when the right to the possession thereof vests in such devisee, and convey it by deed or otherwise in the same manner as a domestic corporation. (*Thus amended by chap. 136, Laws 1894.*)

PROHIBITION OF BANKING POWERS.

§ 19. No corporation except a corporation formed under or subject to the banking laws, shall by any implication or construction be deemed to possess the power of carrying on the business of discounting bills, notes or other evidences of debt, of receiving deposits, of buying gold or silver bullion or foreign coins, or buying and selling bills of exchange, or shall issue bills, notes or other evidences of debt for circulation as money.

QUALIFICATION OF MEMBERS AS VOTERS.

§ 20. At every election of directors and meeting of the members of any corporation, every member who is not in default in the payment of his subscriptions upon his stock or disqualified by the by-laws, shall be entitled to one vote, if a non-stock corporation, and, if a stock corporation, to one vote for every share of stock held by him for ten days immediately preceding the election or meeting.

Every pledgor of stock standing in his name on the books of the corporation shall be deemed the owner thereof for the purposes of this section.

The certificate of incorporation of any stock corporation may provide that at all elections of directors of such corporation, each stockholder shall be entitled to as many votes as shall equal the number of his shares of stock multiplied by the number of directors to be elected, and that he may cast all of such votes for a single director or may distribute them among the number to be voted for, or any

two or more of them as he may see fit, which right, when exercised, shall be termed cumulative voting. The stockholders of a corporation heretofore formed, who, by the provisions of laws existing on April 30, 1891, were entitled to the exercise of such right, may hereafter exercise such right according to the provisions of this section.

No person shall vote or issue a proxy to vote at any meeting of the stockholders or bondholders, or both, of a stock corporation, upon any stock or bonds which have not been owned by him for at least ten days next preceding such meeting, notwithstanding such stock or bonds may stand in his name on the books of the corporation.

No member of a corporation shall sell his vote or issue a proxy to vote to any person for any sum of money or anything of value.

The books and papers containing the record of membership of the corporation shall be produced at any meeting of its members upon the request of any member. If the right to vote at any such meeting shall be challenged, the inspectors of election, or other persons presiding thereat, shall require such books, if they can be had, to be produced as evidence of the right of the person challenged to vote at such meeting, and all persons who may appear from such books to be members of the corporation may vote at such meeting in person or by proxy, subject to the provisions of this chapter.

PROXIES.

§ 21. Every member of a corporation, except a religious corporation, entitled to vote at any meeting thereof, may so vote by proxy.

No officer, clerk, teller or bookkeeper of a corporation formed under or subject to the banking law shall act as proxy for any stockholder at any meeting of any such corporation.

Every proxy must be executed in writing by the member himself, or by his duly authorized attorney. No proxy hereafter made shall be valid after the expiration of eleven months from the date of its execution, unless the member executing it shall have specified therein the length of time it is to continue in force, which shall be for some limited period. Every proxy shall be revocable at the pleasure of the person executing it; but a corporation having no capital stock may prescribe in its by-laws the persons who may act as proxies for members, and the length of time for which proxies may be executed.

CHALLENGES.

§ 22. Every member of a corporation offering to vote at any election or meeting of the corporation shall, if required by an inspector of election or other officer presiding at such election or meeting, or by any other member present, take and subscribe the following oath: "I do solemnly swear that in voting at this election I have not, either directly, indirectly or impliedly, received any promise or any sum of money or anything of value to influence the giving of my vote or votes at this meeting or as a consideration therefor." If it is a stock corporation, the oath so taken and subscribed shall contain the following additional provision: "That I have not sold or otherwise disposed of my interest in or title to any shares of stock or bonds in respect to which I offer to vote at this election, but that all such shares or bonds are still owned by me," but if such stock or bonds be pledged, the oath may so state. Any person offering to vote as proxy for any other person shall present his proxy, and, if so required, take and subscribe the following oath: "I do solemnly swear that I have not, either directly, indirectly or impliedly, given any promise or any sum of money or anything of value to induce the giving of a proxy to me to vote at this election, or received any promise or any sum of money or anything of value to influence the giving of my vote at this meeting, or as a consideration therefor." If a stock corporation, the oath so taken and subscribed shall contain the following additional provision: "And that the title to the stocks and bonds upon which I now offer to vote is, to the best of my knowledge and belief, truly and in good faith vested in the persons in whose names they now stand," but if such stocks or bonds be held as security, the oath may so state. The inspectors or persons presiding at the election may administer such oath, and all such oaths and proxies shall be filed in the office of the corporation. (*Thus amended by chap. 672, Laws of 1895.*)

EFFECT OF FAILURE TO ELECT DIRECTORS.

§ 23. If the directors shall not be elected on the day designated in the by-laws, or by law, the corporation shall not for that reason be dissolved; but every director shall continue to hold his office and discharge his duties until his successor has been elected.

MODE OF CALLING SPECIAL ELECTION OF DIRECTORS.

§ 24. If the election has not been held on the day so designated, the directors shall forthwith call a meeting of the members of the corporation for the purpose of electing directors, of which meeting

notice shall be given in the same manner as of the annual meeting for the election of directors.

If such meeting shall not be so called within one month, or, if held, shall result in the failure to elect directors, any member of the corporation may call a meeting for the purpose of electing directors by publishing a notice of the time and place of holding such meeting, at least once in each week for two successive weeks immediately preceding the election, in a newspaper published in the county where the election is to be held and in such other manner as may be prescribed in the by-laws for the publication of notice of the annual meeting, and by serving upon each member, either personally or by mail, directed to him at his last known post-office address, a copy of such notice at least two weeks before the meeting.

MODE OF CONDUCTING SPECIAL ELECTIONS OF DIRECTORS.

§ 25. Such meeting shall be held at the office of the corporation, or if it has none, at the place in this state where its principal business has been transacted, or if access to such office or place is denied or cannot be had, at some other place in the city, village or town where such office or place is or was located.

At such meeting the members attending shall constitute a quorum. They may elect inspectors of election and directors and adopt by-laws providing for future annual meetings and election of directors, if the corporation has no such by-laws, and transact any other business which may be transacted at an annual meeting of the members of the corporation.

QUALIFICATION OF VOTERS AND CANVASS OF VOTES AT SPECIAL ELECTIONS.

§ 26. In the absence at such meeting of the books of the corporation showing who are members thereof, each person, before voting, shall present his sworn statement setting forth that he is a member of the corporation; and if a stock corporation, the number of shares of stock owned by him and standing in his name on the books of the corporation, and, if known to him, the whole number of shares of stock of the corporation outstanding. On filing such statement, he may vote as a member of the corporation; and if a stock corporation, he may vote on the shares of stock appearing in such statement to be owned by him and standing in his name on the books of the corporation.

The inspectors shall return and file such statements, with a certificate of the result of the election, verified by them, in the office

of the clerk of the county in which such election is held, and the persons so elected shall be the directors of the corporation.

POWERS OF SUPREME COURT RESPECTING ELECTIONS.

§ 27. The supreme court shall, upon the application of any person or corporation aggrieved by or complaining of any election of any corporation or any proceeding, act or matter touching the same, upon notice thereof to the adverse party, or to those to be affected thereby, forthwith and in a summary way, hear the affidavits, proofs and allegations of the parties, or otherwise inquire into the matters or causes of complaint, and establish the election or order a new election, or make such order and give such relief as right and justice may require.

STAY OF PROCEEDINGS IN ACTIONS COLLUSIVELY BROUGHT.

§ 28. If an action is brought against a corporation by the procurement or default of its directors, or any of them, to enforce any claim or obligation declared void by law, or to which the corporation has a valid defense, and such action is in the interest or for the benefit of any director, and the corporation has by his connivance made default in such action, or consented to the validity of such claim or obligation, any member of the corporation may apply to the supreme court, upon affidavit, setting forth the facts, for a stay of proceedings in such action, and on proof of the facts in such further manner and upon such notice as the court may direct, it may stay such proceedings or set aside and vacate the same, or grant such other relief as may seem proper, and which will not injuriously affect an innocent party, who, without notice of such wrongdoing and for a valuable consideration, has acquired rights under such proceedings.

QUORUM OF DIRECTORS AND POWERS OF MAJORITY.

§ 29. The affairs of every corporation shall be managed by its board of directors at least two of whom shall be residents of this state. Unless otherwise provided by law a majority of the board of directors of a corporation at a meeting duly assembled shall be necessary to constitute a quorum for the transaction of business, and the act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors. Subject to the by-laws, if any, adopted by the members of a corporation, the directors may make necessary by-laws of the corporation.

DIRECTORS AS TRUSTEES IN CASE OF DISSOLUTION.

§ 30. Upon the dissolution of any corporation, its directors, unless other persons shall be appointed by the legislature, or by some court of competent jurisdiction, shall be the trustees of its creditors, stockholders or members, and shall have full power to settle its affairs, collect and pay outstanding debts, and divide among the persons entitled thereto the money and other property remaining after payment of debts and necessary expenses.

Such trustees shall have authority to sue for and recover the debts and property of the corporation, by their name as such trustees, and shall jointly and severally be personally liable to its creditors, stockholders or members, to the extent of its property and effects that shall come into their hands.

FORFEITURE FOR NON-USER.

§ 31. If any corporation, except a railroad, turnpike, plank-road or bridge corporation, shall not organize and commence the transaction of its business or undertake the discharge of its corporate duties within two years from the date of its incorporation, its corporate powers shall cease.

EXTENSION OF CORPORATE EXISTENCE.

§ 32. Any domestic corporation at any time within three years before the expiration thereof, may extend the term of its existence beyond the time specified in its original certificate of incorporation, or by law, or in any certificate of extension of corporate existence, by the consent of the stockholders owning two-thirds in amount of its capital stock, if not a stock corporation, by the consent of two-thirds of its members, in and by a certificate signed and acknowledged by them and filed in the offices in which the original certificates of its incorporation were filed, if at all, and, if not, then in the offices where certificates of incorporation are now required by law to be filed, and the officers with whom the same may be filed shall thereupon record them in the books kept in their respective offices for the record of such certificates, and make a memorandum of such record in the margin of the original certificate in such book, if any, and thereupon the time of existence of such corporation shall be extended, as designated in such certificate, for a term not exceeding the term of which it was incorporated in the first instance. If the term of existence of any domestic corporation shall have expired and it shall be made satisfactorily to appear to the supreme court that such corporation was legally organized pur-

suant to any law of this state, and that through mistake it shall have issued its bonds payable at a date beyond the date fixed in its charter or certificate of incorporation for the expiration of its corporate existence, and such bonds shall be unmatured and unpaid, the supreme court may, upon the application of any person interested and upon such notice to such other parties as the court may require, by order, authorize the filing and recording of a certificate reviving the existence of such corporation, upon such conditions and with such limitations as such order shall specify, and extending such corporate existence for a term not exceeding the term for which it was originally incorporated. Upon filing and recording such certificate in the same manner as certificates of extension of corporate existence duly issued before the expiration of the existence of a domestic corporation is authorized by law to be filed and recorded, such corporate existence shall be revived and extended in pursuance of the terms of such order, but such revival and extension shall not affect any litigation commenced after such expiration and pending at the time of such revival.

If a corporation formed under or subject to the banking law, such certificate shall not be filed or recorded unless it shall have indorsed thereon the written approval of the superintendent of banks; or, if an insurance corporation, unless it shall have indorsed thereon the written approval of the superintendent of insurance; and, if a turnpike or bridge corporation, it shall not be filed unless it shall have indorsed thereon or annexed thereto a certified copy of a resolution of the board of supervisors of each county in which such turnpike or bridge is located, approving of and authorizing such extension.

Every corporation extending its corporate existence under this chapter or under any general law of the state shall thereafter be subject to the provisions of this chapter and of such general law, notwithstanding any special provisions in its charter, and shall thereafter be deemed to be incorporated under the general laws of the state relating to the incorporation of a corporation for the purpose of carrying on the business in which it is engaged, and shall be subject to the provisions of such laws.

CONFLICTING CORPORATE LAWS.

§ 33. If in any corporate law there is or shall be any provision in conflict with any provisions of this chapter or of the stock corporation law, the provisions so conflicting shall prevail, and the provision of this chapter or of the stock corporation law with which it

conflicts shall not apply in such a case. If in any such law there is or shall be a provision relating to a matter embraced in this chapter or in the stock corporation law, but not in conflict with it, such provision in such other law shall be deemed to be in addition to the provision in this chapter or in the stock corporation law relating to the same subject matter, and both provisions shall, in such case, be applicable.

LAWS REPEALED.

§ 34. Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed. Such repeal shall not revive a law repealed by any law hereby repealed, but shall include all laws amendatory of the laws hereby repealed.

SAVING CLAUSE

§ 35. The repeal of a law or any part of it specified in the annexed schedule shall not affect or impair any act done, or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to May 1, 1891, under or by virtue of any law so repealed, but the same may be asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if such law had not been repealed. All actions and proceedings, civil or criminal, commenced under or by virtue of the laws so repealed, and pending on April 30, 1891, may be prosecuted and defended to final effect in the same manner as they might under the laws then existing, unless it shall be otherwise specially provided by law.

CONSTRUCTION.

§ 36. The provisions of this chapter, and of the stock corporation law, the railroad law, the transportation corporations law, and the business corporations law, so far as they are substantially the same as those of laws existing on April 30, 1891, shall be construed as a continuation of such laws modified or amended according to the language employed in this chapter, or in the stock corporation law, the railroad law, the transportation corporations law, or the business corporations law, and not as new enactments.

References in laws not repealed to provisions of laws incorporated into the general laws hereinbefore enumerated and repealed, shall be construed as applying to the provisions so incorporated.

Nothing in this chapter or in the other general laws hereinbefore specified shall be construed to amend or repeal any provision of the Criminal or Penal Code or to impair any right or liability which any

existing corporation, its officers, directors, stockholders or creditors may have or be subject to or which any such corporation, other than a railroad corporation, had or was subject to on April 30, 1891, by virtue of any special act of the legislature creating such corporation or creating or defining any such right or liability, unless such special act is repealed by this chapter.

LAW REVIVED.

§ 37. Chapter three hundred of the laws of eighteen hundred and fifty-five, entitled "An act to incorporate the Baptist Historical Society of the city of New York," which was inadvertently repealed by the transportation corporations law, is revived and re-enacted, and shall be of the same force and effect as if it had not been repealed.

WHEN NOTICE OR LAPSE OF TIME UNNECESSARY.

§ 38. Whenever, under the provisions of any of the corporate laws a corporation is authorized to take any action after notice to its members or after the lapse of a prescribed period of time, such action may be taken without notice and without the lapse of any period of time, if such action be authorized or approved, and such requirements be waived in writing by every member of such corporation, or by his attorney thereunto authorized. (*This section added by chap. 672, Laws of 1895.*)

AS TO ACTS OF DIRECTORS.

§ 39. Whenever, under the provisions of any of the corporate laws a corporation is authorized to take any action by the agreement or action of its directors, managers or trustees, such agreement or action may be taken by such directors, regularly convened as a board, and acting by a majority of a quorum, except when otherwise expressly required by law or the by-laws of the corporation and any such agreement shall be executed in behalf of the corporation by such officers as shall be designated by the board of directors, managers or trustees. (*This section added by chap. 672, Laws of 1895.*)

ALTERATION AND REPEAL OF CHARTER.

§ 40. The charter of every corporation shall be subject to alteration, suspension and repeal, in the discretion of the legislature. (*This section added by chap. 672, Laws of 1895.*)

SCHEDULE OF LAWS REPEALED.

Revised Statutes.....Part I, chapter 18.....All

LAWS OF	Chapter	Section.
1811.....	67.....	All.
1815.....	47.....	All.
1815.....	202.....	All.
1816.....	58.....	All.
1817.....	223.....	All.
1818.....	67.....	All.
1819.....	102.....	All.
1821.....	14.....	All.
1822.....	213.....	All.
1836.....	284.....	All.
1836.....	316.....	All.
1838.....	160.....	All.
1838.....	161.....	All.
1838.....	262.....	All.
1839.....	218.....	All.
1842.....	165.....	All.
1846.....	155.....	All.
1846.....	215.....	17, 18
1847.....	100.....	3, 4.
1847.....	210.....	All.
1847.....	222.....	All.
1847.....	270.....	All.
1847.....	272.....	All.
1847.....	287.....	All.
1847.....	398.....	All.
1847.....	404.....	All.
1847.....	405.....	All.
1848.....	37.....	All.
1848.....	40.....	All.
1848.....	45.....	All.
1848.....	259.....	All.
1848.....	265.....	All.
1848.....	360.....	All.
1849.....	250.....	All.
1849.....	362.....	All.
1850.....	71.....	All.
1850.....	140.....	All.
1851.....	14.....	All.
1851.....	19.....	All.
1851.....	98.....	All.
1851.....	107.....	All.
1851.....	487.....	All.
1851.....	497.....	All.
1852.....	228.....	All.
1852.....	372.....	All.
1853.....	53.....	All.
1853.....	117.....	All.

LAWS OF	Chapter	Section.
1853.....	124.....	All.
1853.....	135.....	All.
1853.....	245.....	All.
1853.....	333.....	All.
1853.....	471.....	1, 2, 4.
1853.....	481.....	All.
1853.....	502.....	All.
1853.....	626.....	All.
1854.....	3.....	All.
1854.....	87.....	All.
1854.....	140.....	All.
1854.....	201.....	All.
1854.....	232.....	All.
1854.....	269.....	All.
1854.....	282.....	All.
1854.....	312.....	All.
1855.....	301.....	All.
1855.....	302.....	All.
1855.....	390.....	All.
1855.....	478.....	All.
1855.....	485.....	All.
1855.....	495.....	All.
1855.....	546.....	All.
1855.....	559.....	All.
1856.....	65.....	All.
1857.....	29.....	All.
1857.....	83.....	All.
1857.....	185.....	All.
1857.....	202.....	All.
1857.....	262.....	All.
1857.....	444.....	All.
1857.....	546.....	All.
1857.....	558.....	All.
1857.....	643.....	All.
1857.....	776.....	All.
1858.....	10.....	All.
1858.....	125.....	All.
1859.....	209.....	All.
1859.....	311.....	All.
1859.....	455.....	All.
1860.....	116.....	All.
1860.....	269.....	All.
1860.....	523.....	All.
1861.....	149.....	All.
1861.....	170.....	All.
1861.....	215.....	All.
1861.....	238.....	All.
1862.....	205.....	All.
1862.....	248.....	All.
1862.....	425.....	All.
1862.....	438.....	All.

LAWS OF	Chapter	Section.
1862.....	449.....	All.
1862.....	472.....	All.
1863.....	63.....	All.
1863.....	134.....	All.
1863.....	346.....	All.
1864.....	85.....	All.
1864.....	337.....	All.
1864.....	517.....	All.
1864.....	582.....	All.
1865.....	234.....	All.
1865.....	246.....	All.
1865.....	307.....	All.
1865.....	691.....	All.
1865.....	780.....	All.
1866.....	73.....	All.
1866.....	259.....	All.
1866.....	322.....	All.
1866.....	371.....	All.
1866.....	697.....	All.
1866.....	780.....	All.
1866.....	799.....	All.
1866.....	838.....	All.
1867.....	12.....	All.
1867.....	49.....	All.
1867.....	248.....	All.
1867.....	254.....	All.
1867.....	419.....	All.
1867.....	480.....	All.
1867.....	509.....	All.
1867.....	775.....	All.
1867.....	906.....	All.
1867.....	937.....	All.
1867.....	960.....	All.
1867.....	974.....	All.
1868.....	253.....	All.
1868.....	290.....	All.
1868.....	573.....	All.
1868.....	781.....	All.
1869.....	234.....	All.
1869.....	237.....	All.
1869.....	605.....	All.
1869.....	706.....	All.
1869.....	844.....	All.
1869.....	917.....	All.
1870.....	124.....	All.
1870.....	135.....	All.
1870.....	322.....	All.
1870.....	443.....	All.
1870.....	568.....	All.
1870.....	773.....	All.
1871.....	95.....	All.

LAWS OF	Chapter	Section.
1871.....	481.....	All.
1871.....	535.....	All.
1871.....	560.....	All.
1871.....	657.....	All.
1871.....	669.....	All.
1871.....	697.....	All.
1871.....	883.....	All.
1872.....	81.....	All.
1872.....	128.....	All.
1872.....	146.....	All.
1872.....	248.....	All.
1872.....	283.....	All.
1872.....	350.....	All.
1872.....	374.....	All.
1872.....	426.....	All.
1872.....	609.....	All.
1872.....	611.....	All.
1872.....	779.....	All.
1872.....	780.....	All.
1872.....	820.....	All except 20.
1872.....	829.....	All.
1872.....	843.....	All.
1873.....	151.....	All.
1873.....	352.....	All.
1873.....	432.....	All.
1873.....	440.....	All.
1873.....	469.....	All.
1873.....	616.....	All.
1873.....	710.....	All.
1873.....	737.....	All.
1873.....	814.....	All.
1874.....	76.....	All.
1874.....	143.....	All.
1874.....	149.....	All.
1874.....	240.....	All.
1874.....	288.....	All.
1874.....	430.....	All.
1875.....	4.....	All.
1875.....	58.....	All.
1875.....	88.....	All.
1875.....	108.....	All.
1875.....	113.....	All.
1875.....	119.....	All.
1875.....	120.....	All.
1875.....	159.....	All.
1875.....	193.....	All.
1875.....	256.....	All.
1875.....	319.....	All.
1875.....	365.....	All.
1875.....	445.....	All.
1875.....	510.....	All.

LAWS OF	Chapter	Section.
1875	586	All.
1875	598	All.
1875	606	All.
1875	611	All.
1876	77	All.
1876	135	All.
1876	198	All.
1876	280	All.
1876	358	All.
1876	373	All.
1876	415	All.
1876	435	All.
1876	446	All.
1877	103	All.
1877	158	All.
1877	164	All.
1877	171	All.
1877	224	All.
1877	266	All.
1877	374	All.
1878	61	All.
1878	121	All.
1878	163	All.
1878	203	All.
1878	210	All.
1878	261	All.
1878	264	All.
1878	316	All.
1878	334	All.
1878	394	All.
1879	214	All.
1879	253	All.
1879	290	All.
1879	293	All.
1879	350	All.
1879	377	All.
1879	393	All.
1879	395	All.
1879	413	All.
1879	415	All.
1879	441	All.
1879	503	All.
1879	505	All.
1879	512	All.
1879	541	All.
1880	5	All.
1880	85	All.
1880	90	All.
1880	94	All.
1880	113	All.
1880	133	All.

LAWS OF	Chapter	Section.
1880.....	155.....	All.
1880.....	182.....	All.
1880.....	187.....	All.
1880.....	223.....	All.
1880.....	225.....	All.
1880.....	241.....	All.
1880.....	254.....	All.
1880.....	263.....	All.
1880.....	267.....	All.
1880.....	349.....	All.
1880.....	415.....	All.
1880.....	417.....	All.
1880.....	484.....	All.
1880.....	510.....	All.
1880.....	575.....	All.
1880.....	582.....	All.
1880.....	583.....	All.
1880.....	585.....	All.
1881.....	22.....	All.
1881.....	58.....	All.
1881.....	77.....	All.
1881.....	117.....	All.
1881.....	148.....	All.
1881.....	213.....	All.
1881.....	232.....	All.
1881.....	295.....	All.
1881.....	296.....	All.
1881.....	311.....	All.
1881.....	313.....	All.
1881.....	321.....	All.
1881.....	337.....	All.
1881.....	338.....	All.
1881.....	351.....	All.
1881.....	399.....	All.
1881.....	422.....	All.
1881.....	464.....	All.
1881.....	468.....	All.
1881.....	470.....	All.
1881.....	472.....	All.
1881.....	485.....	All.
1881.....	551.....	All.
1881.....	589.....	All.
1881.....	649.....	All.
1881.....	650.....	All.
1881.....	674.....	All.
1881.....	685.....	All.
1882.....	73.....	All.
1882.....	82.....	All.
1882.....	140.....	All.
1882.....	273.....	All.
1882.....	289.....	All.

LAWS OF	Chapter	Section.
1882.....	290.....	All.
1882.....	306.....	All.
1882.....	309.....	All.
1882.....	349.....	All.
1882.....	353.....	All.
1882.....	393.....	All.
1882.....	405.....	All.
1883.....	46.....	All.
1883.....	71.....	All.
1883.....	102.....	All.
1883.....	216.....	All.
1883.....	232.....	All.
1883.....	237.....	All.
1883.....	238.....	All.
1883.....	240.....	All.
1883.....	287.....	All.
1883.....	323.....	All.
1883.....	361.....	All.
1883.....	381.....	All.
1883.....	382.....	All.
1883.....	384.....	All.
1883.....	386.....	All.
1883.....	387.....	All.
1883.....	388.....	All.
1883.....	409.....	All.
1883.....	482.....	All.
1883.....	483.....	All.
1883.....	497.....	All.
1884.....	140.....	All.
1884.....	193.....	All.
1884.....	208.....	All.
1884.....	223.....	All.
1884.....	252.....	All.
1884.....	267.....	All.
1884.....	367.....	All.
1884.....	386.....	All.
1884.....	397.....	All.
1884.....	421.....	All.
1884.....	422.....	All.
1884.....	439.....	All.
1884.....	441.....	All.
1884.....	444.....	All.
1885.....	84.....	All.
1885.....	127.....	All.
1885.....	141.....	All.
1885.....	153.....	All.
1885.....	171.....	All.
1885.....	305.....	All.
1885.....	369.....	All.
1885.....	422.....	All.
1885.....	423.....	All.

LAWS OF	Chapter	Section.
1885	489	All.
1885	498	All.
1885	535	All.
1885	540	All.
1885	549	All.
1886	65	All.
1886	182	All.
1886	271	All.
1886	321	All.
1886	322	All.
1886	403	All.
1886	415	All.
1886	509	All.
1886	551	All.
1886	579	All.
1886	586	All.
1886	592	All.
1886	601	All.
1886	605	All.
1886	634	All.
1886	642	All.
1887	450	All.
1887	486	All.
1887	536	All.
1887	570	All.
1887	616	All.
1887	622	All.
1887	724	All.
1888	189	All.
1888	306	All.
1888	313	All.
1888	359	All.
1888	394	All.
1888	447	All.
1888	462	All.
1888	513	All.
1888	514	All.
1888	549	All.
1888	560	All.
1889	57	All.
1889	76	All.
1889	78	All.
1889	236	All.
1889	242	All.
1889	281	All.
1889	332	All.
1889	369	All.
1889	426	All.
1889	519	All.
1889	524	All.
1889	531	All.

LAWS OF	Chapter	Section.
1889.....	532.....	All.
1889.....	564.....	All.
1890.....	23.....	All.
1890.....	98.....	All.
1890.....	119.....	All.
1890.....	193.....	All.
1890.....	292.....	All.
1890.....	416.....	All.
1890.....	421.....	All.
1890.....	483.....	All.
1890.....	497.....	All.
1890.....	505.....	All.
1890.....	508.....	All.
1890.....	543.....	All.
1891.....	57.....	All.
1891.....	287.....	All.
1892.....	2.....	All.

The Stock Corporation Law.

CHAP. 564, LAWS OF 1890.

AN ACT in relation to stock corporations, constituting chapter thirty-six of the general laws.

(As amended to and including the session of the Legislature of 1896.

ARTICLE 1. General powers; reorganization. (§§ 1-7.)

2. Directors and officers; their election, duties and liabilities. (§§ 20-32).

3. Stock; stockholders, their rights and liabilities. (§§ 40-55.)

ARTICLE I.

GENERAL POWERS; REORGANIZATION.

SECTION 1. Short title, and application of chapter.

2. Power to borrow money and mortgage property.

3. Reorganization upon sale of corporate property and franchises.

4. Contents of plan or agreement.

5. Sale of property; possession of receiver and suits against him.

6. Assent of stockholders to plan of readjustment.

7. Combinations prohibited.

SHORT TITLE AND APPLICATION OF CHAPTER.

SECTION 1. This chapter shall be known as the stock corporation law, but article one shall not apply to monied corporations.

POWER TO BORROW MONEY AND MORTGAGE PROPERTY.

§ 2. In addition to the powers conferred by the general corporation law, every stock corporation shall have power to borrow money or contract debts, when necessary for the transaction of its business, or for the exercise of its corporate rights, privileges or franchises, or for any other lawful purpose of its incorporation; and may issue and dispose of its obligations for any amount so borrowed, and may mortgage its property and franchises to secure the payment of such obligations or of any debt contracted for the purposes herein specified; and the amount of the obligations issued and outstanding at any one time secured by such mortgages, excepting mortgages given as a consideration for the purchase of real estate, and mortgages authorized by contracts made prior to May first, eighteen hundred and ninety-one, shall not exceed the amount of its paid up capital stock, or an amount equal to two-thirds of the value of its corporate property at

the time of issuing the obligations secured by such mortgages, in case such two-thirds value shall be more than the amount of such paid up capital stock. No such mortgages, except purchase-money mortgages, shall be issued without the consent of the stockholders owning at least two-thirds of the stock of the corporation, which consent shall be in writing and shall be filed and recorded in the office of the clerk or register of the county where it has its principal place of business, or shall be given by vote at a special meeting of the stockholders called for that purpose; and a certificate of the vote at such meeting, signed and sworn to by the chairman and secretary of such meeting, shall be filed and recorded as aforesaid. When authorized by such consent, the directors, under such regulations as they may adopt, may confer on the holder of any debt or obligation secured by such mortgage the right to convert the principal thereof, after two and not more than twelve years from the date of the mortgage, into stock of the corporation; and if the capital stock shall not be sufficient to meet the conversion when made, the stockholders shall, in the manner herein provided, authorize an increase of capital stock sufficient for that purpose. (*See also chap. 337, Laws 1892, amending this section.*)

REORGANIZATION UPON SALE OF CORPORATE PROPERTY AND FRANCHISES.

§ 3. When the property and franchises of any domestic stock corporation shall be sold by virtue of a mortgage or deed of trust, duly executed by it, or pursuant to the judgment or decree of a court of competent jurisdiction, or by virtue of any execution issued thereon, and the purchaser at such sale shall acquire title to the same in the manner prescribed by law, he may associate with him any number of persons, not less than the number required by law for the incorporation of such corporation, a majority of whom shall be citizens and residents of this state, and they may become a corporation, and take and possess the property and franchises thus sold, and which were at the time of sale possessed by the corporation whose property shall have been so sold, upon making, acknowledging and filing in the offices where certificates of incorporation are required by law to be filed, a certificate in which they shall describe by name and reference to the law under which it was organized, the corporation whose property and franchises they have acquired, and the court by whose authority the sale had been made, with the date of the judgment or decree authorizing or directing the same, and a brief description of the property sold, and also the following particulars:

1. The name of the new corporation intended to be formed by the filing of such certificate.

2. The maximum amount of its capital stock and the number of shares into which it is to be divided, specifying the classes thereof, whether common or preferred, and the amount of and rights pertaining to each class.

3. The number of directors, not less nor more than the number required by law for the old corporation, who shall manage the affairs of the new corporation, and the names and post-office address of the directors for the first year.

4. Any plan or agreement which may have been entered into at or previous to the time of sale, in anticipation of the formation of the new corporation, and pursuant to which such purchase was made. Such corporation shall be vested with and be entitled to exercise and enjoy all the rights, privileges and franchises, which at the time of such sale belonged to, or were vested in the corporation, last owning the property sold, or its receiver, and shall be subject to all the provisions, duties and liabilities imposed by law on such corporations.

CONTENTS OF PLAN OR AGREEMENT.

§ 4. At or previous to the sale the purchasers thereat, or the persons for whom the purchase is to be made, may enter into a plan or agreement, for or in anticipation of the readjustment of the respective interests therein of the mortgage creditors and stockholders of the corporation owning such property and franchises at the time of sale, and for the representation of such interests of creditors and stockholders in the bonds or stock of the new corporation to be formed, and may therein regulate voting by the holders of the preferred and common stock at any meeting of the stockholders, and by the holders and owners of any or all of the bonds of the corporation foreclosed, or of the bonds issued or to be issued by the new corporation, and such right of voting by bondholders shall be exercised in such manner, for such period, and upon such conditions, as shall be therein described. Such plan or agreement must contain suitable provision for the bondholders voting by proxy and must not be inconsistent with the laws of the state and shall be binding upon the corporation, until changed as therein provided, or as otherwise provided by law. The new corporation when duly organized, pursuant to such plan or agreement and to the provisions of law, may issue its bonds and stock in conformity with the provisions of such plan or agreement, and may at any time within six months after its

organization, compromise, settle or assume the payment of any debt, claim or liability of the former corporation upon such terms as may be lawfully approved by a majority of the agents or trustees intrusted with the carrying out of the plan or agreement of reorganization, and may establish preferences in respect to the payment of dividends in favor of any portion of its capital stock and may divide its stock into classes, but the capital stock of the new corporation shall not exceed in the aggregate the maximum amount of stock mentioned in the certificate of incorporation, nor shall the bonds issued by it exceed in the aggregate the amount which a corporation is authorized by the provisions of this article to issue.

SALE OF PROPERTY ; POSSESSION OF RECEIVER AND SUITS AGAINST HIM.

§ 5. The supreme court may direct a sale of the whole of the property, rights and franchises covered by the mortgage or mortgages, or deeds of trust foreclosed at any one time and place to be named in the judgment or order, either in case of the non-payment of interest only, or of both the principal and interest due and unpaid and secured by any such mortgage or mortgages or deeds of trust. Neither the sale nor the formation of the new corporation shall interfere with the authority or possession of any receiver of such property and franchises, but he shall remain liable to be removed or discharged at such time as the court may deem proper. No suit or proceeding shall be commenced against such receiver unless founded on willful misconduct or fraud in his trust after the expiration of sixty days from the time of his discharge; but after the expiration of sixty days the new corporation shall be liable in any action that may be commenced against it, and founded on any act or omission of such receiver for which he may not be sued, and to the same extent as the receiver, but for this section would be or remain liable, or to the same extent that the new corporation would be had it done or omitted the acts complained of.

STOCKHOLDERS MAY ASSENT TO PLAN OF READJUSTMENT.

§ 6. Every stockholder in any corporation, the franchises and property whereof shall have been thus sold, may assent to the plan of readjustment and reorganization of interests pursuant to which such franchises and property shall have been purchased at any time within six months after the organization of the new corporation, and by complying with the terms and conditions of such plan become entitled to his pro rata benefits therein. The commissioners,

corporate authorities, or proper officers of any city, town or village, who may hold stock in any corporation, the property and franchises whereof shall be liable to be sold, may assent to any plan or agreement of re-organization which lawfully provides for the formation of a new corporation, and the issue of stock therein to the proper authorities or officers of such cities, towns or villages in exchange for the stock of the old or former corporation by them respectively held. And such commissioners, corporate authorities or other proper officers may assign, transfer or surrender the stock so held by them in the manner required by such plan, and accept in lieu thereof the stock issued by such new corporation in conformity therewith.

COMBINATIONS PROHIBITED.

§ 7. No stock corporation shall combine with any other corporation or person for the creation of a monopoly or the unlawful restraint of trade or for the prevention of competition in any necessary of life.

ARTICLE II.

DIRECTORS AND OFFICERS; THEIR ELECTION, DUTIES AND LIABILITIES.

SECTION 20. Directors.

21. Change of number of directors.
22. When acts of directors void.
23. Liability of directors for making unauthorized dividends.
24. Liability of directors for contracting unauthorized debts and over issue of bonds.
25. Liability of directors for loans to stockholders.
26. Transfers of stock by stockholders indebted to corporation.
27. Officers.
28. Inspectors and their oath.
29. Books to be kept.
30. Annual report.
31. Liability of officers for false certificates, reports of public notices.
32. Alteration or extension of business.
33. Sale of franchise and property.

DIRECTORS.

§ 20. The directors of every stock corporation shall be chosen from the stockholders at the time and place fixed by the by-laws of the corporation by a plurality of the votes of the stockholders voting at such election. Vacancies in the board of directors shall

be filled in the manner prescribed in the by-laws, and if a director shall cease to be a stockholder his office shall become vacant. Notice of the time and place of holding any election of directors shall be given by publication thereof, at least once in each week for two successive weeks immediately preceding such election, in a newspaper published in the county where such election is to be held, and in such other manner as may be prescribed in the by-laws. Policyholders of an insurance corporation shall be eligible to election as directors. At least one-fourth in number of the directors of every stock corporation shall be elected annually.

CHANGE OF NUMBER OF DIRECTORS.

§ 21. The number of directors of any stock corporation may be increased or reduced, but not above the maximum nor below the minimum number prescribed by law, when the stockholders owning a majority of the stock of the corporation shall so determine, at a meeting to be held at the usual place of meeting of the directors, on two weeks' notice in writing to each stockholder of record. Such notice shall be served personally or by mail, directed to each stockholder at his last known post-office address. Proof of the service of such notice shall be filed in the office of the corporation at or before the time of such meeting. The proceedings of such meeting shall be entered in the minutes of the corporation, and a transcript thereof, verified by the president and secretary of the meeting, shall be filed in the offices where the original certificates of incorporation were filed. If a corporation formed under or subject to the banking law, the consent of the superintendent of banks, and if an insurance corporation, the consent of the superintendent of insurance, shall be first obtained to such increase or reduction of the number of directors.

WHEN ACTS OF DIRECTORS VOID.

§ 22. When the directors of any corporation for the first year of its corporate existence shall hold over and continue to be directors after the first year, because of their neglect or refusal to adopt the by-laws required to enable the stockholders to hold the annual election for directors, all their acts and proceedings while so holding over, done for and in the name of the corporation, designed to charge upon it any liability or obligation for the services of any such director, or any officer, or attorney or counsel appointed by them, and every such liability or obligation shall be held to be fraudulent and void.

LAWS OF	Chapter	Section.
1880.....	155.....	All.
1880.....	182.....	All.
1880.....	187.....	All.
1880.....	223.....	All.
1880.....	225.....	All.
1880.....	241.....	All.
1880.....	254.....	All.
1880.....	263.....	All.
1880.....	267.....	All.
1880.....	349.....	All.
1880.....	415.....	All.
1880.....	417.....	All.
1880.....	484.....	All.
1880.....	510.....	All.
1880.....	575.....	All.
1880.....	582.....	All.
1880.....	583.....	All.
1880.....	585.....	All.
1881.....	22.....	All.
1881.....	58.....	All.
1881.....	77.....	All.
1881.....	117.....	All.
1881.....	148.....	All.
1881.....	213.....	All.
1881.....	232.....	All.
1881.....	295.....	All.
1881.....	296.....	All.
1881.....	311.....	All.
1881.....	313.....	All.
1881.....	321.....	All.
1881.....	337.....	All.
1881.....	338.....	All.
1881.....	351.....	All.
1881.....	399.....	All.
1881.....	422.....	All.
1881.....	464.....	All.
1881.....	468.....	All.
1881.....	470.....	All.
1881.....	472.....	All.
1881.....	485.....	All.
1881.....	551.....	All.
1881.....	589.....	All.
1881.....	649.....	All.
1881.....	650.....	All.
1881.....	674.....	All.
1881.....	685.....	All.
1882.....	73.....	All.
1882.....	82.....	All.
1882.....	140.....	All.
1882.....	273.....	All.
1882.....	289.....	All.

LAWS OF	Chapter	Section.
1882.....	290.....	All.
1882.....	306.....	All.
1882.....	309.....	All.
1882.....	349.....	All.
1882.....	353.....	All.
1882.....	393.....	All.
1882.....	405.....	All.
1883.....	46.....	All.
1883.....	71.....	All.
1883.....	102.....	All.
1883.....	216.....	All.
1883.....	232.....	All.
1883.....	237.....	All.
1883.....	238.....	All.
1883.....	240.....	All.
1883.....	287.....	All.
1883.....	323.....	All.
1883.....	361.....	All.
1883.....	381.....	All.
1883.....	382.....	All.
1883.....	384.....	All.
1883.....	386.....	All.
1883.....	387.....	All.
1883.....	388.....	All.
1883.....	409.....	All.
1883.....	482.....	All.
1883.....	483.....	All.
1883.....	497.....	All.
1884.....	140.....	All.
1884.....	193.....	All.
1884.....	208.....	All.
1884.....	223.....	All.
1884.....	252.....	All.
1884.....	267.....	All.
1884.....	367.....	All.
1884.....	386.....	All.
1884.....	397.....	All.
1884.....	421.....	All.
1884.....	422.....	All.
1884.....	439.....	All.
1884.....	441.....	All.
1884.....	444.....	All.
1885.....	84.....	All.
1885.....	127.....	All.
1885.....	141.....	All.
1885.....	153.....	All.
1885.....	171.....	All.
1885.....	305.....	All.
1885.....	369.....	All.
1885.....	422.....	All.
1885.....	423.....	All.

LAWS OF	Chapter	Section.
1885.....	489.....	All.
1885.....	498.....	All.
1885.....	535.....	All.
1885.....	540.....	All.
1885.....	549.....	All.
1886.....	65.....	All.
1886.....	182.....	All.
1886.....	271.....	All.
1886.....	321.....	All.
1886.....	322.....	All.
1886.....	403.....	All.
1886.....	415.....	All.
1886.....	509.....	All.
1886.....	551.....	All.
1886.....	579.....	All.
1886.....	586.....	All.
1886.....	592.....	All.
1886.....	601.....	All.
1886.....	605.....	All.
1886.....	634.....	All.
1886.....	642.....	All.
1887.....	450.....	All.
1887.....	486.....	All.
1887.....	536.....	All.
1887.....	570.....	All.
1887.....	616.....	All.
1887.....	622.....	All.
1887.....	724.....	All.
1888.....	189.....	All.
1888.....	306.....	All.
1888.....	313.....	All.
1888.....	359.....	All.
1888.....	394.....	All.
1888.....	447.....	All.
1888.....	462.....	All.
1888.....	513.....	All.
1888.....	514.....	All.
1888.....	549.....	All.
1888.....	560.....	All.
1889.....	57.....	All.
1889.....	76.....	All.
1889.....	78.....	All.
1889.....	236.....	All.
1889.....	242.....	All.
1889.....	281.....	All.
1889.....	332.....	All.
1889.....	369.....	All.
1889.....	426.....	All.
1889.....	519.....	All.
1889.....	524.....	All.
1889.....	531.....	All.

LAWS OF	Chapter	Section.
1889.....	532.....	All.
1889.....	564.....	All.
1890.....	23.....	All.
1890.....	98.....	All.
1890.....	119.....	All.
1890.....	193.....	All.
1890.....	292.....	All.
1890.....	416.....	All.
1890.....	421.....	All.
1890.....	483.....	All.
1890.....	497.....	All.
1890.....	505.....	All.
1890.....	508.....	All.
1890.....	543.....	All.
1891.....	57.....	All.
1891.....	287.....	All.
1892.....	2.....	All.

directly to the person so becoming a creditor or stockholder and he became such creditor or stockholder upon the faith thereof. No action can be maintained for a cause of action created by this section unless brought within two years from the time the certificate, report or public notice shall have been made or given by the officers or directors of such corporation.

ALTERATION OR EXTENSION OF BUSINESS.

§ 32. Any stock corporation heretofore or hereafter organized under any general or special law of this state may extend or alter its business and powers so as to include any purposes and powers which at the time of such extension may have been conferred by law upon corporations engaged in a business of the same general character, or which might be included in the certificate of incorporation of a corporation organizing under any general law of this state for a business of the same general character, by filing in the manner provided for the original certificate of incorporation an amended certificate, executed by a majority of its directors, stating the extension of business and powers and rights proposed, and that the same has been duly authorized by a vote of stockholders representing at least three-fifths of the capital stock, at a meeting of the stockholders called for the purpose in the manner provided in section forty-five of this chapter, and a copy of the proceedings of such meeting, verified by the affidavit of one of the directors present thereat, shall be filed with such amended certificate.

SALE OF FRANCHISE AND PROPERTY.

§ 33. A stock corporation, except a railroad corporation and except as otherwise provided by law, with the consent of two-thirds of its stock, may sell and convey its property, rights, privileges and franchises, or any interest therein or any part thereof to a domestic corporation, engaged in a business of the same general character, or which might be included in the certificate of incorporation of a corporation organizing under any general law of this state for a business of the same general character; and such sale and conveyance shall vest the rights, property and franchises thereby transferred in the corporation to which they are conveyed for the term of its corporate existence, subject to the provisions and restrictions applicable to the corporation conveying them. Before such sale or conveyance shall be made such consent shall be obtained at a meeting of the stockholders called upon like notice as that required for an annual meeting. If any stockholder not voting in favor of such

proposed sale or conveyance shall at such meeting, or within twenty days thereafter object to such sale, and demand payment for his stock, he may, within sixty days after such meeting, apply to the supreme court at any special term thereof held in the district in which the principal place of business of such corporation is situated, upon eight days notice to the corporation, for the appointment of three persons to appraise the value of such stock, and the court shall appoint three such appraisers, and designate the time and place of their proceedings as shall be deemed proper, and also direct the manner in which payment for such stock shall be made to such stockholder. The court may fill any vacancy in the board of appraisers occurring by refusal or neglect to serve or otherwise. The appraisers shall meet at the time and place designated, and they or any two of them, after being duly sworn honestly and faithfully to discharge their duties, shall estimate and certify the value of such stock at the time of such dissent, and deliver one copy to such corporation, and another to such stockholder if demanded; the charges and expenses of the appraisers shall be paid by the corporation. When the corporation shall have paid the amount of such appraisal, as directed by the court, such stockholders shall cease to have any interest in such stock and in the corporate property of such corporation and such stock may be held or disposed of by such corporation. (*This section added by chap. 638, Laws 1893.*)

ARTICLE III.

STOCK; STOCKHOLDERS, THEIR RIGHTS AND LIABILITIES.

SECTION 40. Issue and transfer of stock.

41. Subscriptions to stock.
42. Consideration for issue of stock and bonds.
43. Time of payment of subscriptions to stock.
44. Increase or reduction of capital stock.
45. Notice of meeting to increase or reduce capital stock.
46. Conduct of such meeting; certificate of increase or reduction.
47. Preferred and common stock.
48. Prohibited transfers to officers or stockholders.
49. Payment by stockholders of mortgage debt pending foreclosure.
50. Application to court to order issue of new in place of lost certificate of stock.
51. Order of court upon such application.
52. Financial statement to stockholders.
53. Exhibition of books by transfer agent of foreign corporation.
54. Liabilities of stockholders.
55. Limitation of stockholder's liability.
56. Increase or reduction of number of shares.
57. Voluntary dissolution.
58. Merger.
59. Change of place of business.

ISSUE AND TRANSFERS OF STOCK.

§ 40. The stock of every stock corporation shall be represented by certificates prepared by the directors and signed by the president or vice-president and secretary or treasurer and sealed with the seal of the corporation, and shall be transferable in the manner prescribed in this chapter and in the by-laws. No share shall be transferable until all previous calls thereon shall have been fully paid in.

Any stock corporation, domestic or foreign, now existing or hereafter organized, except monied corporations, may purchase, acquire, hold and dispose of the stocks, bonds and other evidences of indebtedness of any corporation, domestic or foreign, and issue in exchange therefor its stock, bonds or other obligations if authorized so to do by a provision in the certificate of incorporation of such stock corporation, or in any certificate amendatory thereof or supplementary thereto, filed in pursuance of law, or if the corporation whose stock is so purchased, acquired, held or disposed of, is engaged in a business similar to that of such stock corporation, or engaged in the manufacture, use or sale of the property, or in the construction or operation of works necessary or useful in the business of such stock corporation, or in which or in connection with which the manufactured articles, product or property of such stock corporation are or may be used, or is a corporation with which such stock corporation is or may be authorized to consolidate. When any such corporation shall be a stockholder in any other corporation, as herein provided, its president or other officers shall be eligible to the office of director of such corporation, the same as if they were individually stockholders therein and the corporation holding such stock shall possess and exercise in respect thereof, all the rights, powers and privileges of individual owners or holders of such stock.

Any stock corporation may, in pursuance of a unanimous vote of its stockholders voting at a special meeting called for that purpose by notice in writing signed by a majority of the directors of such corporation stating the time and place and object of the meeting, and served upon each stockholder appearing as such upon the books of the corporation, personally or by mail at his last-known post-office address at least sixty days prior to such meeting, guarantee the bonds of any other domestic corporation engaged in the same general line of business.

SUBSCRIPTIONS TO STOCK.

§ 41. If the whole capital stock shall not have been subscribed at the time of filing the certificate of incorporation, the directors named

in the certificate may open books of subscription to fill up the capital stock in such places, and after giving such notices as they may deem expedient, and may continue to receive subscriptions until the whole capital stock is subscribed. At the time of subscribing, every subscriber, whose subscription is payable in money, shall pay to the directors ten per centum upon the amount subscribed by him in cash, and no such subscription shall be received or taken without such payment.

CONSIDERATION FOR ISSUE OF STOCK AND BONDS.

§ 42. No corporation shall issue either stock or bonds except for money, labor done or property actually received for the use and lawful purposes of such corporation. No such stock shall be issued for less than its par value.

No such bonds shall be issued for less than the fair market value thereof.

TIME OF PAYMENT OF SUBSCRIPTIONS TO STOCK.

§ 43. Subscriptions to the capital stock of a corporation shall be paid at such times and in such installments as the board of directors may by resolution require. If default shall be made in the payment of any installment as required by such resolution, the board may declare the stock and all previous payments thereon forfeited for the use of the corporation, after the expiration of sixty days from the service on the defaulting stockholder, personally or by mail directed to him at his last-known post-office address, of a written notice requiring him to make payment within sixty days from the service of the notice at a place specified therein, and stating that, in case of failure to do so, his stock and all previous payments thereon will be forfeited for the use of the corporation.

Such stock, if forfeited, may be reissued or subscriptions therefor may be received as in the case of stock not issued or subscribed for. If not sold for its par value or subscribed for within six months after such forfeiture, it shall be cancelled and deducted from the amount of the capital stock. If by such cancellation, the amount of the capital stock is reduced below the minimum required by law, the capital stock shall be increased to the required amount within three months thereafter or an action may be brought or proceedings instituted to close up the business of the corporation as in the case of an insolvent corporation. If a receiver of the assets of the corporation has been appointed, all unpaid subscriptions to the stock shall be paid at such times and in such installments as the receiver or the court may direct.

INCREASE OR REDUCTION OF CAPITAL STOCK.

§ 44. Any domestic corporation may increase or reduce its capital stock in the manner herein provided, but not above the maximum or below the minimum if any, prescribed by law. If increased, the holders of the additional stock issued shall be subject to the same liabilities with respect thereto as are provided by law in relation to the original capital; if reduced, the amount of its debts and liabilities shall not exceed the amount of its reduced capital, unless an insurance corporation, in which case the amount of its debts and liabilities shall not exceed the amount of its reduced capital and other assets. The owner of any stock shall not be relieved from any liability existing prior to the reduction of the capital stock of any stock corporation. If a banking corporation, whether the capital be increased or reduced, its assets shall at least be equal to its debts and liabilities and the capital stock, as increased or reduced. (*Thus amended by chap. 346, Laws 1894.*)

NOTICE OF MEETING TO INCREASE OR REDUCE CAPITAL STOCK.

§ 45. Every such increase or reduction must be authorized by a vote of the stockholders owning at least a majority of the stock of the corporation, taken at a meeting of the stockholders specially called for that purpose. Notice of the meeting, stating the time, place and object, and the amount of the increase or reduction proposed, signed by a majority of the directors, shall be published once a week, for at least two successive weeks, in a newspaper in the county where its principal business office is located, if any is published therein, and a copy of such notice shall be personally served upon or duly mailed to each stockholder or member at his last-known post-office address at least three weeks before the meeting. (*Thus amended by chap. 700, Laws 1893.*)

CONDUCT OF SUCH MEETING ; CERTIFICATE OF INCREASE OR REDUCTION.

§ 46. If, at the time and place specified in the notice, the stockholders shall appear in person or by proxy, in numbers representing at least a majority of all the shares of stock, they shall organize by choosing from their number a chairman and secretary, and take a vote of those present in person or by proxy, and if a sufficient number of votes shall be given in favor of such increase or reduction, a certificate of the proceedings, showing a compliance with the provisions of this chapter, the amount of capital actually paid in, the whole amount of debts and liabilities of the corporation, and the amount of the increased or reduced capital stock, shall be made,

signed, verified and acknowledged by the chairman and secretary of the meeting, and filed in the office of the clerk of the county where its principal place of business shall be located, and a duplicate thereof in the office of the secretary of state. In case of a reduction of the capital stock, except of a railroad corporation, or a monied corporation, such certificate shall have indorsed thereon the approval of the comptroller, to the effect that the reduced capital is sufficient for the proper purposes of the corporation, and is in excess of its debts and liabilities, and in case of the increase, or reduction of the capital stock of a railroad corporation, or a monied corporation, the certificate shall have indorsed thereon the approval of the board of railroad commissioners, if a railroad corporation; of the superintendent of banks, if a corporation formed under or subject to the banking law; and of the superintendent of insurance, if an insurance corporation.

When the certificate herein provided for has been filed, the capital stock of such corporation shall be increased or reduced, as the case may be, to the amount specified in such certificate. The proceedings of the meeting at which such increase or reduction is voted, shall be entered upon the minutes of the corporation. If the capital stock is reduced, the amount of capital over and above the amount of the reduced capital shall be returned to the stockholders pro rata at such times and in such manner as the directors shall determine. (*Thus amended by chap. 700, Laws of 1893.*)

PREFERRED AND COMMON STOCK.

§ 47. Every domestic stock corporation may have preferred and common stock, and different classes of preferred stock, if the certificate of incorporation so provides or by the unanimous consent of the stockholders, and may, upon the written request of the holder of any preferred stock, by a two-thirds vote of its directors, exchange the same for common stock, and issue certificates for common stock therefor, share for share, or upon such other valuation as may have been agreed upon in the scheme for the organization of such corporation, or the issue of such preferred stock, but the total amount of such capital stock shall not be increased thereby.

PROHIBITED TRANSFERS TO OFFICERS OR STOCKHOLDERS.

§ 48. No corporation which shall have refused to pay any of its notes or other obligations when due, in lawful money of the United States, nor any of its officers or directors, shall transfer any of its property to any of its officers, directors or stockholders, directly or

indirectly, for the payment of any debt, or upon any other consideration than the full value of the property paid in cash. No conveyance, assignment or transfer of any property of any such corporation by it or by any officer, director or stockholder thereof, nor any payment made, judgment suffered, lien created or security given by it or by any officer, director or stockholder when the corporation is insolvent or its insolvency is imminent, with the intent of giving a preference to any particular creditor over other creditors of the corporation shall be valid.

Every person receiving by means of any such prohibited act or deed any property of the corporation shall be bound to account therefor to its creditors or stockholders or other trustees.

No stockholder of any such corporation shall make any transfer or assignment of his stock therein to any person in contemplation of its insolvency. Every transfer or assignment or other act done in violation of the foregoing provisions of this section shall be void.

No conveyance, assignment or transfer of any property of a corporation formed under or subject to the banking law, exceeding in value one thousand dollars shall be made by such corporation, or by any officer or director thereof, unless authorized by a previous resolution of its board of directors, except promissory notes or other evidences of debt issued or received by the officers of the corporation in the transaction of its ordinary business and except payments in specie or other current money or in bank bills made by such officers. No such conveyance, assignment or transfer shall be void in the hands of a purchaser for a valuable consideration without notice.

Every director or officer of a corporation who shall violate or be concerned in violating any provision of this section, shall be personally liable to the creditors and stockholders of the corporation of which he shall be director or an officer to the full extent of any loss they may respectively sustain by such violation.

PAYMENT BY STOCKHOLDERS OF MORTGAGE DEBT PENDING FORECLOSURE.

§ 49. Whenever default shall be made by any corporation in the payment of principal or interest of any of its bonds secured by mortgage or deed of trust of its property, any stockholder may at any time during the pendency of the foreclosure of such mortgage or deed of trust and before the sale thereunder pay to the mortgagees or grantees in such mortgage or deed, for the use and benefit of the holders of such bonds, a sum equal to such proportion of the amount due and secured to be paid by such mortgage or deed, as his stock

in such corporation shall bear to its whole capital stock, and on making such payment he shall to the extent thereof become and be interested in such mortgage or deed and protected thereby.

APPLICATION TO COURT TO ORDER ISSUE OF NEW IN PLACE OF LOST CERTIFICATE OF STOCK.

§ 50. The owner of a lost or destroyed certificate of stock, if the corporation shall refuse to issue a new certificate in place thereof, may apply to the supreme court, at any special term held in the district where he resides, or in which the principal business office of the corporation is located, for an order requiring the corporation to show cause why it should not be required to issue a new certificate in place of the one lost or destroyed. The application shall be by petition, duly verified by the owner, stating the name of the corporation, the number and date of the certificate, if known, or if it can be ascertained by the petitioner; the number of shares named therein, to whom issued, and as particular a statement of the circumstances attending such loss or destruction as the petitioner can give. Upon the presentation of the petition the court shall make an order requiring the corporation to show cause, at a time and place therein mentioned, why it should not issue a new certificate of stock in place of the one described in the petition. A copy of the petition and order shall be served on the president or other head of the corporation, or on the secretary or treasurer thereof, personally, at least ten days before the time for showing cause.

ORDER OF COURT UPON SUCH APPLICATION.

§ 51. Upon the return of the order, with proof of due service thereof, the court shall, in a summary manner, and in such mode as it may deem advisable, inquire into the truth of the facts stated in the petition, and hear the proofs and allegations of the parties in regard thereto, and if satisfied that the petitioner is the lawful owner of the number of shares, or any part thereof, described in the petition, and that the certificate therefor has been lost or destroyed, and cannot after due diligence be found, and that no sufficient cause has been shown why a new certificate should not be issued, it shall make an order requiring the corporation, within such time as shall be therein designated, to issue and deliver to the petitioner a new certificate for the number of shares specified in the order, upon depositing such security, or filing a bond in such form and with such sureties as to the court shall appear sufficient to indemnify any person other than the petitioner who shall thereafter be found to be the

lawful owner of the certificate lost or destroyed; and the court may direct the publication of such notice, either before or after making such order as it shall deem proper. Any person claiming any rights under the certificates alleged to have been lost or destroyed shall have recourse to such indemnity, and the corporation shall be discharged from all liability to such person upon compliance with such order; and obedience to the order may be enforced by attachment against the officer or officers of the corporation on proof of his or their refusal to comply with it.

FINANCIAL STATEMENT TO STOCKHOLDERS.

§ 52. Stockholders owning five per centum of the capital stock of any corporation other than a monied corporation, not exceeding one hundred thousand dollars, or three per centum where it exceeds one hundred thousand dollars, may make a written request to the treasurer or chief fiscal officer thereof, for a statement of its affairs, under oath, embracing a particular account of all its assets and liabilities, and the treasurer shall make such statement and deliver it to the person presenting the request within thirty days thereafter, and keep on file for twelve months thereafter a copy of such statement, which shall at all times during business hours be exhibited to any stockholder demanding an examination thereof; but the treasurer or such chief fiscal officer shall not be required to deliver more than one such statement in any one year. The supreme court, or any justice thereof, may upon application, for good cause shown, extend the time for making and delivering such certificate. For every neglect or refusal of the treasurer or other chief fiscal officer thereof to comply with the provisions of this section he shall forfeit and pay to the person making such request the sum of fifty dollars, and the further sum of ten dollars for every twenty-four hours thereafter until such statement shall be furnished.

EXHIBITION OF BOOKS BY TRANSFER AGENT OF FOREIGN CORPORATION.

§ 53. The transfer agent in this state of any foreign corporation whether such agent shall be a corporation or a natural person, shall, at all times during the usual hours of transacting business, exhibit to any stockholder of such corporation, when required by him, the transfer book, and a list of the stockholders thereof, if in his power to do so, and for every violation of the provisions of this section, such agent, or any officer or clerk of such agent, shall forfeit the sum of

two hundred and fifty dollars, to be recovered by the person to whom such refusal was made.

LIABILITIES OF STOCKHOLDERS.

§ 54. The stockholders of every stock corporation shall, jointly and severally, be personally liable to its creditors, to an amount equal to the amount of the stock held by them respectively, for every debt of the corporation, until the whole amount of its capital stock issued and outstanding at the time such debt was incurred shall have been fully paid. The stockholders of every stock corporation shall, jointly and severally, be personally liable for all debts due and owing to any of its laborers, servants or employes other than contractors, for services performed by them for such corporation. Before such laborer, servant or employe shall charge such stockholder for such services, he shall give him notice in writing, within thirty days after the termination of such services that he intends to hold him liable, and shall commence an action therefor within thirty days after the return of an execution unsatisfied against the corporation upon a judgment recovered against it for services. No person holding stock in any corporation as collateral security, or as executor, administrator, guardian or trustee, unless he shall have voluntarily invested the trust funds in such stock, shall be personally subject to liability as a stockholder; but the person pledging such stock shall be considered the holder thereof, and shall be liable as stockholder; and the estates and funds in the hands of such executor, administrator, guardian or trustee shall be liable in the like manner and to the same extent as the testator or intestate, or the ward, or person interested in such trust fund would have been, if he had been living and competent to act and held the same stock in his own name, unless it appears that such executor, administrator, guardian or trustee voluntarily invested the trust funds in such stocks, in which case he shall be personally liable as a stockholder.

LIMITATION OF STOCKHOLDER'S LIABILITY.

§ 55. No action shall be brought against a stockholder for any debt of the corporation until judgment therefor has been recovered against the corporation, and an execution thereon has been returned unsatisfied in whole or in part, and the amount due on such execution shall be the amount recoverable, with costs against the stockholder. No stockholder shall be personally liable for any debt of the corporation not payable within two years from the time it is

contracted, nor unless an action for its collection shall be brought against the corporation within two years after the debt becomes due; and no action shall be brought against a stockholder after he shall have ceased to be a stockholder, for any debt of the corporation, unless brought within two years from the time he shall have ceased to be a stockholder.

INCREASE OR REDUCTION OF NUMBER OF SHARES.

§ 56. A stock corporation may provide that the number of shares into which its capital stock is divided shall be increased or reduced by a two-thirds vote of all stock duly represented at a meeting held and conducted in like manner, and upon filing a like certificate, as required for the increase or reduction of its capital stock. If such increase or reduction of the number of shares be so authorized, the corporation shall issue to each stockholder certificates for as many shares of the new stock as equal in par value the shares of the old stock held by him, upon surrender and cancellation of such old stock. This section does not authorize the increase or reduction of the capital stock of such corporation. (*This section added by chap. 196, Laws 1893.*)

VOLUNTARY DISSOLUTION.

§ 57. Any stock corporation, except a moneyed or a railroad corporation, may be dissolved before the expiration of the time limited in its certificate of incorporation or in its charter as follows: The board of directors of any such corporation may at a meeting called for that purpose upon, at least, three days' notice to each director, by a vote of a majority of the whole board, adopt a resolution that it is in their opinion advisable to dissolve such corporation forthwith, and thereupon shall call a meeting of the stockholders for the purpose of voting upon a proposition that such corporation be forthwith dissolved. Such meeting of the stockholders shall be held, not less than thirty nor more than sixty days after the adoption of such resolution, and the notice of the time and place of such meeting so called by the directors shall be published in one or more newspapers published and circulating in the county wherein such corporation has its principal office, at least once a week for three weeks successively next preceding the time appointed for holding such meeting, and on or before the day of the first publication of such notice, a copy thereof shall be served personally on each stockholder, or mailed to him at his last-known post-office address. Such meeting shall be held in the city, town or village in which the last preceding meeting of the corporation was held, and said meeting may, on the day so appointed, by the consent of a majority in interest of the

stockholders present, be adjourned from time to time, and notice of such adjournment shall be published in the newspapers in which the notice of the meeting was published. If at any such meeting the holders of two-thirds in amount of the stock of the corporation, then outstanding, shall, in person or by attorney, consent that such dissolution shall take place and signify such consent, in writing, then, such corporation shall file such consent, attested by its secretary or treasurer, and its president or vice-president, together with the powers of attorney signed by such stockholders executing such consent by attorney, with a statement of the names and residences of the then existing board of directors of said corporation, and the names and residences of its officers duly verified by the secretary or treasurer or president of said corporation, in the office of the secretary of state. The secretary of state shall thereupon issue to such corporation, in duplicate, a certificate of the filing of such papers and that it appears therefrom that such corporation has complied with this section in order to be dissolved, and one of such duplicate certificates shall be filed by such corporation in the office of the clerk of the county in which such corporation has its principal office; and thereupon such corporation shall be dissolved and shall cease to carry on business, except for the purpose of adjusting and winding up its business. The board of directors shall cause a copy of such certificate to be published at least once a week for two weeks in one or more newspapers published and circulating in the county in which the principal office of such corporation is located, and at the expiration of such publication, the said corporation by its board of directors shall proceed to adjust and wind up its business and affairs with power to carry out its contracts and to sell its assets at public or private sale, and to apply the same in discharge of debts and obligations of such corporation, and after paying and adequately providing for the payment of such debts and obligations, to distribute the balance of assets among the stockholders of said corporation, according to their respective rights and interests. Said corporation shall nevertheless continue in existence for the purpose of paying, satisfying and discharging any existing debts or obligations, collecting and distributing its assets and doing all other acts required in order to adjust and wind up its business and affairs, and may sue and be sued for the purpose of enforcing such debts or obligations, until its business and affairs are fully adjusted and wound up. (*This section added by chap. 932, Laws of 1896.*)

MERGER

§ 58. Any stock corporation lawfully owning all the stock of any other stock corporation organized for, or engaged in business similar or incidental to that of the possessor corporation may file in the office of the

secretary of state, under its common seal, a certificate of such ownership, and of the resolution of its board of directors to merge such other corporation, and thereupon it shall acquire and become, and be possessed of all the estate, property, rights, privileges and franchises of such other corporation, and they shall vest in and be held and enjoyed by it as fully and entirely and without change or diminution as the same were before held and enjoyed by such other corporation, and be managed and controlled by the board of directors of such possessor corporation, and in its name, but without prejudice to any liabilities of such other corporation or the rights of any creditors thereof. (*This section added by chap. 932, Laws of 1896.*)

CHANGE OF PLACE OF BUSINESS.

§ 59. Any stock corporation now existing or hereafter organized under the laws of this state, except monied corporations, may at any time change its principal office and place of business from the city, town or county named in its certificate of incorporation, or to which it may have been changed under the provisions of this section, to any other city, town or county in this state, in which it may desire to actually transact and carry on its regular business from day to day, provided, and * such change has been authorized by a vote of the stockholders of said corporation at a special meeting of stockholders called for that purpose. When such change shall be authorized by the stockholders as herein provided, the president and secretary and a majority of the directors of such corporation shall sign a certificate stating the name of said corporation, the city, town and county where its principal office and place of business was originally located, and to which it may have been subsequently changed, and the city, town and county to which it is desired to change its said principal office and place of business, and that it is the purpose of said corporation to actually transact and carry on its regular business from day to day at such place, and that such change has been authorized as herein provided, and the names of the directors of said corporation and their respective places of residence, which certificate shall be verified by the oaths of all the persons signing the same, and when so signed and verified, shall be filed in the office of the secretary of state and a duplicate thereof in the office of the clerk of the county from which said principal office and place of business is about to be removed or changed, and another in the office of the clerk of the county to which said removal or change is to be made, and thereupon the principal office and place of business of such corporation shall be changed as stated in said certificate. (*This section added by chap. 929, Laws of 1896.*)

See sections of Penal Code as to certain penalties, *post.*

* So in the original.

THE RAILROAD LAW.

Being chapter 565 of the Laws of 1890, as amended to and including the session of the Legislature of the year 1896.

AN ACT in relation to railroads, constituting chapter thirty-nine of the general laws.

CHAPTER XXXIX OF THE GENERAL LAWS.

THE RAILROAD LAW.

- ARTICLE 1. Organization ; general powers ; location (§§ 1-21).
2. Construction ; operation ; management (§§ 30-59).
3. Consolidation ; lease ; sale ; reorganization (§§ 70-84).
4. Street surface railroads (§§ 90-110).
5. Other railroads in cities and counties (§§ 120-142).
6. Board of railroad commissioners (§§ 150-172).
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ARTICLE I.

ORGANIZATION, GENERAL POWERS, LOCATION.

- SECTION 1. Short title.
2. Incorporation.
3. Supplemental certificate.
4. Additional powers conferred.
 1. Entry upon land for purpose of survey.
 2. Acquisition of real property.
 3. Construction of road.
 4. Intersection of streams, highways, plank-roads, turnpikes and canals.
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 6. Buildings and stations.
 7. Transportation of persons and property.
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 9. Purchase of lands and stock in other states.
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5. When corporate powers to cease.
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8. Railroads through public lands.
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11. Intersection of highways, additional lands for.

SECTION 12. Intersection of other railroads.

13. Change of route, grade or terminus.
14. Construction of part of line in another state.
15. Two roads having the same location.
16. Tunnel railroads.
17. Railroads in foreign countries.
18. Additional corporate powers of such road.
19. Location of principal office of such road.
20. Individual, joint-stock association, or other corporation may lay down and maintain railroad tracks in certain cases.
21. When electric light and power corporation may become a railroad corporation.
21. Certain roads may be operated in the summer only.

SHORT TITLE.

SECTION 1. This chapter shall be known as the railroad law.

INCORPORATION.

§ 2. Fifteen or more persons may become a corporation, for the purpose of building, maintaining and operating a railroad, or of maintaining and operating a railroad already built, not owned by a railroad corporation, or for both purposes, by executing, acknowledging and filing a certificate, in which shall be stated :

1. The name of the corporation.
2. The number of years it is to continue.
3. The kind of road to be built or operated.
4. Its length and termini.
5. The name of each county in which any part of it is to be located.
6. The amount of capital stock, which shall not be less than ten thousand dollars for every mile of road built, or proposed to be built, except a narrow-gauge road, when it shall not be less than three thousand dollars for every such mile.
7. The number of shares into which the capital stock is to be divided.
8. If the capital stock is to consist of common and preferred stock, the amount of each class and the rights and privileges of the latter over the former.
9. The names and post-office addresses of the directors of the corporation, not less than nine, who shall manage its affairs for the first year.
10. The place where its principal office is to be located.
11. If a street surface railroad, the names and description of the streets, avenues and highways in which the road is to be constructed.
12. If it is to be a railway corporation, specified in article five of

this chapter, the statements required by that article to be inserted in the certificate of incorporation.

13. The name and post-office address of each subscriber to the certificate and the number of shares of stock he agrees to take.

Such certificate shall have indorsed thereon, or annexed thereto, to be taken as a part thereof, an affidavit of at least three of such directors that at least ten per cent. of the minimum amount of capital stock authorized by law has been subscribed thereto, and paid in good faith and in cash to the directors named in the certificate, and that it is intended in good faith to build, maintain and operate the road mentioned therein. In case of a railway corporation specified in article five of this chapter, the affidavit of the directors shall show that the full amount of such capital stock has been in good faith subscribed, and there shall be annexed to the certificate of incorporation, and as a part thereof the certificate of the railroad commissioners showing the organization of the corporation for the purposes mentioned in the certificate.

The filing of every certificate, where the amount of stock required by this section has not been in good faith subscribed and paid in cash, shall be void. (*Thus amended by chap. 676, Laws 1892.*)

See, also, chap. 238, Laws 1893, *post*.

SUPPLEMENTAL CERTIFICATE.

§ 3. If the names and places of residence of the directors of the corporation have been omitted from the certificate, when executed and acknowledged, and thereafter the requisite number of directors has been chosen at a meeting of the subscribers to the certificate, a supplemental certificate, containing their names and places of residence, may be filed with such certificate with the same force and effect as if the names and places of residence of the directors had been originally inserted therein.

ADDITIONAL POWERS CONFERRED.

§ 4. Subject to the limitations and requirements of this chapter, every railroad corporation, in addition to the powers given by the general and stock corporation laws, shall have power:

ENTRY UPON LANDS FOR PURPOSES OF SURVEY.

1. To cause the necessary examination and survey for its proposed railroad to be made for the selection of the most advantageous route; and for such purpose, by its officers, agents or servants, to enter

upon any lands or waters subject to liability to the owner for all damages done.

ACQUISITION OF REAL PROPERTY.

2. To take and hold such voluntary grants of real estate and other property as shall be made to it to aid in the construction, maintenance and accommodation of its railroad; and to acquire by condemnation such real estate and property as may be necessary for such construction, maintenance and accommodation in the manner provided by law, but the real property acquired by condemnation shall be held and used only for the purposes of the corporation during the continuance of the corporate existence.

CONSTRUCTION OF ROAD.

3. To lay out its road not exceeding six rods in width, and to construct the same; and, for the purpose of cuttings and embankments, to take such additional lands as may be necessary for the proper construction and security of the road; and to cut down any standing tree that may be in danger of falling on the road, upon making compensation therefor.

INTERSECTION OF STREAMS, HIGHWAYS, PLANK-ROADS, TURNPIKES AND CANALS.

4. To construct its road across, along or upon any stream, water-course, highway, plank-road, turnpike, or across any of the canals of the state, which the route of its road shall intersect or touch.

INTERSECTION OF OTHER RAILROADS.

5. To cross, intersect, join, or unite its railroad with any other railroad before constructed, at any point on its route and upon the ground of such other railroad corporation, with the necessary turn-outs, sidings, switches and other conveniences in furtherance of the objects of its connections.

BUILDINGS AND STATIONS.

6. To erect and maintain all necessary and convenient buildings, stations, fixtures and machinery for the accommodation and use of its passengers, freight and business.

TRANSPORTATION OF PERSONS AND PROPERTY.

7. To take and convey persons and property on its railroad by the power or force of steam or of animals, or by any mechanical power, except where such power is specially prescribed in this chapter, and to receive compensation therefor.

TIME AND MANNER OF TRANSPORTATION.

8. To regulate the time and manner in which passengers and property shall be transported, and the compensation to be paid therefor.

PURCHASE OF LANDS AND STOCK IN OTHER STATES.

9. To acquire and dispose of any real property in any other state through which any part of its railroad is operated, and stock in any foreign corporation owning lands in another state for the purpose of securing for such railroad corporation in this state a permanent supply of fuel for its use, and stock of corporations in this state, formed for the purpose of erecting union railway depots.

10. From time to time to borrow such sums of money as may be necessary for completing and finishing or operating its railroad and to issue and dispose of its bonds for any amount so borrowed, and to mortgage its property and franchises to secure the payment of any debts contracted by the company for the purposes aforesaid. (*Thus amended by chap. 676, Laws 1892.*)

WHEN CORPORATE POWERS TO CEASE.

§ 5. If any domestic railroad corporation shall not, within five years after its certificate of incorporation is filed, begin the construction of its road and expend thereon ten per centum of the amount of its capital, or shall not finish its road and put it in operation in ten years from the time of filing such certificate, its corporate existence and powers shall cease. But if any such steam railroad corporation whose certificate of incorporation was filed since the year eighteen hundred and eighty, and whose road as designated in such certificate is wholly within one county and not more than ten miles in length, has acquired the real property necessary for its roadbed by purchase, its corporate existence and powers shall not be deemed to have ceased because of its failure to comply with the provisions of this article; and the time for beginning the construction of its road and expending thereon ten per centum of its capital, is extended until thirteen years from the date of the filing of such certificate and the time for finishing its road and putting it in operation, is extended until eighteen years from the date of such filing. (*Thus amended by chap. 433, Laws 1893.*)

See other laws as to expiration of time, *post.*

LOCATION OF ROUTE.

§ 6. Every railroad corporation, except a street surface railroad corporation and an elevated railway corporation, before construct-

ing any part of its road in any county named in its certificate of incorporation, or instituting any proceeding for the condemnation of real property therein, shall make a map and profile of the route adopted by it in such county, certified by the president and engineer of the corporation or a majority of the directors, and file it in the office of the clerk of the county in which the road is to be made. The corporation shall give written notice to all actual occupants of the lands over which the route of the road is so designated, and which has not been purchased by or given to it, of the time and place such map and profile were filed, and that such route passes over the lands of such occupants. Any such occupant or the owner of the land aggrieved by the proposed location, may, within fifteen days after receiving such notice, give ten days' written notice to such corporation and to the owners or occupants of lands to be affected by any proposed alteration, of the time and place of an application to a justice of the supreme court, in the judicial district where the lands are situated, by petition duly verified, for the appointment of commissioners to examine the route.

The petition shall state the objections to the route designated, shall designate the route to which it is proposed to alter the same, and shall be accompanied with a survey, map and profile of the route designated by the corporation, and of the proposed alteration thereof, and copies thereof shall be served upon the corporation and such owners or occupants with the notice of the application. The justice may, upon the hearing of the application, appoint three disinterested persons, one of whom must be a practical civil engineer, commissioners to examine the route proposed by the corporation, and the route to which it is proposed to alter the same, and after hearing the parties, to affirm the route originally designated, or adopt the proposed alteration thereof, as may be consistent with the just rights of all parties and the public, including the owners or occupants of lands upon the proposed alterations; but no alteration of the route shall be made except by the concurrence of the commissioner, who is a practical civil engineer, nor which will cause greater damage or injury to lands or materially greater length of road than the route designated by the corporation, nor which shall substantially change the general line adopted by the corporation.

The commissioners shall, within thirty days after their appointment, make and certify their written determination, which with the petition, map, survey and profile, and any testimony taken before them shall be immediately filed in the office of the county clerk of the county. Within twenty days after such filing, any party may,

by written notice to the other, appeal to the general term of the supreme court from the decision of the commissioners, which appeal shall be heard and decided at the next term held in the department in which the lands of the petitioners or any of them are situated, for which the same can be noticed, according to the rules and practice of the court. On the hearing of such appeal, the court may affirm the route proposed by the corporation or may adopt that proposed by the petitioner.

The commissioners shall each be entitled to six dollars per day for their services, and to their reasonable and necessary expenses, to be paid by the persons who applied for their appointment. If the route of the road, as designated by the corporation, is altered by the commissioners, or by the order of the court, the corporation shall refund to the petitioner the amount so paid, unless the decision of the commissioners is reversed upon appeal taken by the corporation. No such corporation shall institute any proceedings for the condemnation of real property in any county until after the expiration of fifteen days from the service by it of the notice required by this section. Every such corporation shall transmit to the board of railroad commissioners the following maps, profiles and drawings exhibiting the characteristics, of their road, to wit: A map or maps showing the length and direction of each straight line; the length and radius of each curve; the point of crossing of each town and county line, and the length of line of each town and county accurately determined by measurements to be taken after the completion of the road.

Whenever any part of the road is completed and used, such maps and profiles of such completed part shall be filed with such board within three months after the completion of any such portion and the commencement of its operation; and when any additional portion of the road shall be completed and used, other maps shall be filed within the same period of time, showing the additional parts so completed. If the route, as located upon the map and profile filed in the office of any county clerk, shall have been changed, it shall also cause a copy of the map and profile filed in the office of the railroad commissioners, so far as it may relate to the location in such county, to be filed in the office of the county clerk. (*Thus amended by chap. 676, Laws 1892.*)

ACQUISITION OF TITLE TO REAL PROPERTY.

§ 7. All real property, required by any railroad corporation for the purpose of its incorporation, shall be deemed to be required for

a public use. If the corporation is unable to agree for the purchase of any real property, or of any right, interest or easement therein, required for such purpose, or if the owner thereof shall be incapable of selling the same, or if after diligent search and inquiry the name and residence of such owner cannot be ascertained, it shall have the right to acquire title thereto by condemnation. It shall also have such right in the following cases:

1. Where title to real property has been acquired, or attempted to be acquired, and has been found to be invalid or defective.

2. Where its railroad shall be lawfully in possession of a lessee, mortgagee, trustee or receiver, and additional real property shall be required for the purpose of running or operating such railroad.

3. Where it shall require any further rights to lands or the use of lands for switches, turnouts, or for filling any structures of its road, or for constructing, widening or completing any of its embankments or roadbeds, by means of which greater safety or permanency may be secured, and such lands shall be contiguous to such railroad and reasonably accessible to the place where the same are to be used for such purpose or purposes.

4. Where it shall require any further right to lands or to the use of lands for the flow of water occasioned by railroad embankments or structures now in use, or hereafter rendered necessary, or for any other purpose necessary for the operation of such railroad, or for any right to take and convey water from any spring, pond, creek or river to such railroad, for the uses and purposes thereof, together with the right to build or lay aqueducts or pipes for the purpose of conveying such water, and to take up, relay and repair the same, or for any right of way required for carrying away or diverting any water, stream or floods from such railroad for the purpose of protecting its road or for the purpose of preventing any embankment, excavation or structure of such railroad from injuring the property of any person who may be rendered liable to injury thereby.

Waters commonly used for domestic, agricultural or manufacturing purposes, shall not be taken by condemnation to such an extent as to injuriously interfere with such use in future. No railroad corporation shall have the right to acquire by condemnation any right or easement in or to any real property owned or occupied by any other railroad corporation, except the right to intersect or cross the tracks and lands owned or held for right of way by such other corporation without appropriating or affecting any lands owned or held for depots or gravel-beds. (*Thus amended by chap. 676, Laws 1892.*)

As to condemnation by street railroads, see section 90, *p st.*

As to condemning railroad property, see section 3370, Condemnation Law, *unt.*

RAILROADS THROUGH PUBLIC LANDS.

§ 8. The commissioners of the land office may grant to any domestic railroad corporation any land belonging to the people of the state, except the reservation at Niagara and the Concourse lands on Coney island, which may be required for the purposes of its road on such terms as may be agreed on by them; or such corporation may acquire title thereto by condemnation; and the county or town officers having charge of any land belonging to any county or town, required for such corporation for the purpose of its road, may grant such land to the corporation for such compensation as may be agreed upon.

RAILROADS THROUGH INDIAN LANDS.

§ 9. Any railroad corporation may contract with the chiefs of any nation of Indians, over whose lands it may be necessary to construct its railroad, for the right to make such road upon such lands, but such contract shall not vest in the corporation the fee to the land, nor the right to occupy the same for any purposes other than may be necessary for the construction, occupancy and maintenance of such railroad, and such contract shall not be valid or effectual until it shall be ratified by the county court of the county where the land shall be situated.

RAILROADS THROUGH CHAUTAUQUA ASSEMBLY GROUNDS.

§ 10. No railroad corporation shall build, construct or operate any railroad in, upon, over or through the grounds, lands or premises owned by the Chautauqua assembly corporation in the town and county of Chautauqua, without a written consent of a majority of the board of trustees of such assembly corporation.

INTERSECTION OF HIGHWAYS, ADDITIONAL LANDS FOR.

§ 11. No railroad corporation shall erect any bridge or other obstruction across, in or over any stream or lake, navigated by steam or sail boats at the place where it may be proposed to be erected, nor shall it construct its road in, upon or across any street of any city without the assent of the corporation of such city, nor across, upon or along any highway in any town or street in any incorporated village, without the order of the supreme court of the district in which such highway or street is situated, made at a special term thereof, after at least ten days' written notice of the intention to make application for such order shall have been given to the commissioners of highways of such town, or board of trustees of the village in which such highway or street is situated. Every railroad corporation which shall build its road along, across or upon any stream, watercourse,

street, highway, plankroad or turnpike, which the route of its road shall intersect or touch, shall restore the stream or watercourse, street, highway, plankroad and turnpike, thus intersected or touched, to its former state, or to such state as not to have unnecessarily impaired its usefulness, and any such highway, turnpike or plankroad may be carried by it, under or over its track, as may be found most expedient. Where an embankment or cutting shall make a change in the line of such highway, turnpike or plankroad desirable, with a view to a more easy ascent or descent, it may construct such highway, turnpike or plankroad, on such new line as its directors may select, and may take additional lands therefor by condemnation if necessary. Such lands so taken shall become part of such intersecting highway, turnpike or plankroad, and shall be held in the same manner and by the same tenure as the adjacent parts of the highway, turnpike or plankroad are held for highway purposes. Every railroad corporation shall pay all damages sustained by any turnpike or plankroad corporation in consequence of its crossing or occupation of any turnpike or plankroad, and in case of inability to agree upon the amount of such damages it may acquire the right to such crossing or occupation by condemnation.

INTERSECTION OF OTHER RAILROADS.

§ 12. Every railroad corporation, whose road is or shall be intersected by any new railroad, shall unite with the corporation owning such new railroad in forming the necessary intersections and connections, and grant the requisite facilities therefor. If the two corporations can not agree upon the amount of compensation to be made therefor or upon the line or lines, grade or grades, points or manner of such intersections and connections, the same shall be ascertained and determined by commissioners, one of whom must be a practical civil engineer and surveyor, to be appointed by the court, as is provided in the condemnation law. Such commissioners may determine whether the crossing or crossings of any railroad before constructed shall be beneath, at, or above the existing grade of such railroad, and upon the route designated upon the map of the corporation seeking the crossing or otherwise. All railroad corporations whose roads are or shall hereafter be so crossed, intersected or joined, shall receive from each other and forward to their destination all goods, merchandise and other property intended for points on their respective roads, with the same dispatch as, and at a rate of freight not exceeding the local tariff rate charged for similar goods, merchandise and other property, received at or forwarded from the same

point for individuals and other corporations. (*Thus amended by chap. 676, Laws 1892.*)

CHANGE OF ROUTE, GRADE OR TERMINUS.

§ 13. Every railroad corporation, except elevated railway corporations, may, by a vote of two-thirds of all its directors, alter or change the route or any part of the route of its road or its terminus, or locate such route, or any part thereof, or its terminus, in a county adjoining any county named in its certificate of incorporation, if it shall appear to them that the line can be improved thereby, upon making and filing in the clerk's office of the proper county a survey, map and certificate of such alteration or change. If the same is made after the corporation has commenced grading the original route, compensation shall be made to all persons for injury done by such grading to any lands donated to the corporation. But neither terminus can be changed, under this section, to any other county than one adjoining that in which it was previously located ; nor can the route or terminus of any railroad be so changed in any town, county or municipal corporation, which has issued bonds and taken any stock or bonds in aid of the construction of such railroad without the written consent of a majority of the taxpayers appearing upon the last assessment-roll of such town, county or municipal corporation, unless such terminus, after the change, will remain in the same village or city as theretofore. No alteration of the route of any railroad after its construction shall be made, or new line or route of road laid out or established, as provided in this section, in any city or village, unless approved by a vote of two-thirds of the common council of the city or trustees of the village. Any railroad corporation whose road as located terminates at any railroad previously constructed or located, whereby communication might be had with any incorporated city of the state, may amend its certificate of incorporation so as to terminate its road at a point of its intersection with any railroad subsequently located to intersect it, and thereby, by itself or its connections, afford communication with such city, with the consent of the stockholders owning two-thirds of the stock of the corporation. Any railroad corporation may, by a vote of its directors, change the grade of any part of its road, except in the city of Buffalo, in such manner as it may deem necessary to avoid accidents and to facilitate the use of such road ; and it may by such vote alter the grade of its road, for such distance and in such manner as it may deem necessary, on each or either side of the place where the grade of its road has been changed by direction

of the superintendent of public works, at any point where its road crosses any canal or canal feeder, except in the city of Buffalo. The superintendent of public works shall have a general and supervisory power over that part of any railroad which passes over, or approaches within ten rods of, any canal or feeder belonging to the state so far as may be necessary to preserve the free and perfect use of such canals or feeders, or to make any repairs, improvements or alterations in the same. Any railroad corporation whose tracks cross any of the canals of the state, and the grade of which may be raised by direction of the superintendent of public works, with the assent of such superintendent, may lay out a new line of road to cross such canal at a more favorable grade, and may extend such new line and connect the same with any other line of road owned by such corporation, upon making and filing in the clerk's office of the proper county a survey map and certificate of such new or altered line. No portion of the track of any railroad, as described in its certificate of incorporation, shall be abandoned under this section. (*Thus amended by chap. 676, Laws 1892.*)

CONSTRUCTION OF PART OF LINE IN ANOTHER STATE

§ 14. Any railroad corporation, whose proposed railroad is to be built between any two points in this state, may, by a vote of two-thirds of all its directors, locate and construct a part of its road in an adjoining state, and the sections of its road within this state shall be deemed a connected line, according to the certificate of incorporation, and the directors may reduce the capital stock of the corporation to such amount as may be deemed proper, but not less than ten thousand dollars per mile for the number of miles of roads to be actually constructed in this state.

TWO ROADS HAVING THE SAME LOCATION.

§ 15. If two railroad corporations for a portion of their respective lines embrace the same location of line, or if their lines connect, or are tributary to each other, such corporations may by agreement provide for the construction by one of them of so much of such line as is common to both, or connects with its own line, and for the manner and terms upon which the business thereon shall be performed, and the corporation that is not to construct the part of the line which is common to both, may amend its certificate of incorporation, and terminate its line at the point of intersection, and may reduce its capital to a sum not less than ten thousand dollars for each mile of road proposed to be constructed in such amended certificate.

TUNNEL RAILROADS.

§ 16. When, according to the route and plan for the building of its road, adopted by any railroad corporation, including corporations organized under chapter one hundred and forty of the laws of eighteen hundred and fifty, and the acts amendatory thereof and supplementary thereto, it shall be necessary or proper to build it or any part of it underground, or to tunnel or bridge any river or waters, such corporation may enter upon, acquire title to and use such lands under water and uplands, except on or along any canals of the state, as shall be necessary for the purpose herein mentioned, and may construct, erect and secure the necessary foundations and other structures which may be required for operating and maintaining such road or connecting the same with another, and to acquire, in the manner provided by law, such land or rights or easements in lands along its route, upon, over or beneath the surface thereof as may be necessary for the construction of its road and making such connections. Where such road runs underneath the ground, at such depth as to enable the corporation to tunnel the same, such tunnel shall be so built and at all times kept in such condition as to make the surface of the ground above the same and in the neighborhood thereof firm and safe for buildings and other erections thereon and if surface excavations are made the surface shall be restored to its former condition as soon as can be done, except so far as may be actually required for ventilation of the tunnel beneath the same or access thereto. Such road or any part of it may be built within the limits of any city or incorporated village of this state and run by means of a tunnel underneath any of the streets, roads or public places thereof, provided such corporation shall, before constructing the same underneath any such street, road or public place have obtained the consent of the owners of one-half in value of the property bounded on the line of such street, road or public place, and the consent of the board of trustees of the village, by a resolution adopted at a regular meeting and entered on the records of the board, or of the proper authorities of the city having control of such streets, roads or public places. If the consent of such property-owners can not be obtained, the general term of the supreme court in the district in which said city or village or any part thereof is situated, may upon application appoint three commissioners, who shall determine, after a hearing of all parties interested, whether such railroad ought to be built underneath such streets, roads or public places, or any of them, and in what manner the same may be so built with the least damage to the surface, and to the use of the

surface by the public, and the determination of the commissioners confirmed by the court may be taken in lieu of the consent of the property-owners. All railroad corporations constructing their road under this section shall be subject to all the provisions of this chapter applicable thereto. Any other railroad corporation may connect its road therewith, at such points or places as it may elect, and where such connections shall be made by connecting roads, the railroad corporations owning such roads shall build, at their joint expense, and for their joint use, such passenger and freight depots, and other accommodations for handling passengers and freight, as may be required for the convenience of the public. All railroad corporations, constructing any tunnel under this section, shall be liable to any person or corporation for all damages which may be sustained by reason of the construction of such tunnel. Whenever it shall be necessary in constructing any railroad authorized by this section through any city or incorporated village, to alter the position or course of any sewer, or water or gas pipes, it shall be done at the expense of the railroad corporation under the direction of the department or corporation having charge thereof, so as not to interfere with such work. In all cases the uses of streets, docks and lands beneath which such railroad is constructed, and on the route thereof and the right of way beneath the same, for the purpose of such railroad, shall be considered, and is hereby declared, a public use, consistent with and one of the uses for which streets and docks are publicly held. No public park or square in any city or village of this state shall be used or occupied by any corporation for any of the purposes of this section, and every road constructed hereunder in or through any such street or public place shall be wholly underground and constructed in a tunnel and not otherwise, but nothing in this section shall operate to revive any charter or franchise heretofore granted by or in the city of Brooklyn. This act does not authorize the construction of any bridge over or across the East or North rivers. (*Thus amended by chap. 316, Laws 1893.*)

RAILROADS IN FOREIGN COUNTRIES.

§ 17. A railroad corporation may be formed under this chapter for the purpose of constructing, maintaining and operating in any foreign country a railroad for public use in the transportation of persons and property, or for the purpose of maintaining and operating therein any railroad already constructed, in whole or in part, for the like public use, and of constructing, maintaining and operating,

in connection therewith, telegraph lines and lines of steamboats or sailing vessels. Any corporation formed for the construction and operation of a railroad by stationary power, may construct, operate and maintain a railroad in any other state or country, if not in conflict with the laws thereof, but the assent of the inventors or patentees of the method of propulsion used must be first obtained in the same manner and to the same extent as would be necessary within the United States. (*Thus amended by chap. 676, Laws 1892.*)

ADDITIONAL CORPORATE POWERS OF SUCH ROAD.

§ 18. The corporation specified in the preceding section shall have the following additional powers:

1. To expend money in making preliminary examinations and surveys for its proposed railroad, telegraph lines, and lines of steamboats and sailing vessels, and in acquiring from foreign countries, nations or governments, the grants, concessions and privileges herein authorized.

2. To take and receive from foreign countries, nations and governments, such grants, concessions or privileges, for the construction, acquisition, maintenance and operation of railroads, telegraph lines and vessels, as may be consistent with the purposes of the corporation, and as may be granted and conceded to it, and to hold the same, under such restrictions and with such duties and liabilities as may be fixed by the laws of such foreign country, nation or government, or as may be annexed to such grants or concessions.

3. To construct, acquire, maintain and operate the lines of railroad, telegraph and shipping provided for by its certificate of incorporation, and to take and hold by purchase or by voluntary grant such real estate and other property in foreign countries as may be necessary and convenient for the construction, maintenance and accommodation of such lines, and to sell, convey, mortgage or lease such real estate or other property; and to acquire by purchase or otherwise any railroad or lines of telegraph constructed or in process of construction in any foreign country, and any grants, concessions, franchises, rights, privileges and immunities relating thereto, and to mortgage or sell and convey the same, or any part of its property to any person or corporation created by this or any other state or foreign government, subject to the laws of the country or countries where such property may be, and the power of sale hereby granted shall be exercised only by a majority of the entire board of directors of the corporation, with the written concurrence of the holders of two-thirds in amount of its capital stock.

4. To take and convey persons and property on its transportation lines by the power or force of steam or of animals, or by mechanical or other power, and receive compensation therefor subject to the laws of the place or country where the same are situated.

5. To acquire and use such real estate and other property in this state as may be necessary in the conduct of its business, but the value of such real estate held at any one time shall not exceed the sum of one million dollars.

LOCATION OF PRINCIPAL OFFICE OF SUCH ROAD.

§ 19. Every such corporation shall maintain its principal office within this state and shall have, during business hours, an officer or agent upon whom service of process may be made, and shall hold in this state at least one meeting of the stockholders in each year for the choice of directors, which shall be known as the annual meeting and be held at the time and place fixed by the by-laws of the corporation. (*Thus amended by chap. 676, Laws 1892.*)

INDIVIDUAL, JOINT STOCK ASSOCIATION, OR OTHER CORPORATION MAY LAY DOWN AND MAINTAIN RAILROAD TRACKS IN CERTAIN CASES.

§ 20. Any individual, joint stock association or corporation, engaged in any lawful business in this state, may, except in any city of the state, lay down and maintain such railroad tracks on or across any street or highway, not exceeding three miles in length, as shall be necessary for the transaction of its business, and to connect any place of business owned by them with the track of any railroad corporation, and render such place of business more accessible to the public, upon obtaining the written consent of the owners of all the lands bounded on and of the local authorities having control of that portion of the street or highway, upon which it is proposed to construct or operate such railroad. If the consent of such property owners can not be obtained, the general term of the supreme court of the department in which such railroad is to be constructed, may upon application, appoint three commissioners, who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated, and the amount of damages, if any, to be paid to such property owners, and their determination confirmed by the court may be taken in lieu of the consent of the property owners. But no such railroad shall be so located, graded, built or operated as to interfere with or obstruct the traveled part of any highway, or its

use as a highway, or the use of any street or highway intersecting the same.

**WHEN AN ELECTRIC LIGHT AND POWER CORPORATION MAY
BECOME A RAILROAD CORPORATION.**

§ 21. When all the stockholders of any domestic electric light and power company incorporated under a general law, having not less than five stockholders, and actually carrying on business in this state, shall execute and file in the offices in which it* original certificates of incorporation are filed an amended certificate of incorporation, complying in every other respect than as to the number of signers and directors, who shall be not less than five, with the provisions of the railway law, and in which certificate the corporate name of such corporation shall be amended by adding before the word "company," in its corporate name, the words "and railroad," or the words "railroad and land," such corporation shall have the right to build, maintain and operate by electricity, as a motive power, a railroad not exceeding twenty miles in length and within that distance from the power station and not to exceed four miles in length in any city, and such corporation shall otherwise be subject to all the provisions of this chapter and have all the powers, rights and privileges conferred by it upon railroad corporations, provided that no such corporation shall construct any railroad which is in whole or in part a street surface railroad, without complying with the provisions of article four of this chapter. Upon filing such certificate such corporation shall also have the right to acquire by gift or voluntary purchase and sale land not exceeding two thousand acres, along the line or contiguous to said railroad, and to hold, improve, lease and sell the same. (*Thus amended by chap. 648, Laws 1894.*)

* § 21. Any corporation, whose railroad is or shall be not longer than sixteen miles and is or shall be in large part intended for or used in summer travel or the convenience of summer sojourners need not operate its road beyond the months of June, July, August and September, inclusive. The motive power may be electricity. If the road be not longer than ten miles, such corporation may fix and collect fare for transporting each passenger, together with ordinary baggage, if any, not to exceed fifteen cents for each mile and fraction thereof. (*This section added to Railroad Law by chap. 700, Laws 1892.*)

See section 55, Railroad Law, *post*.

* So in the original.

ARTICLE II.

CONSTRUCTION, OPERATION AND MANAGEMENT.

- SECTION 30. Liability of corporation to employes of contractor.
31. Weight of rail.
 32. Fences, farm-crossings and cattle-guards.
 33. Sign-boards and flagmen at crossings.
 34. Notice of starting trains; no preferences.
 35. Accommodation of connecting roads.
 36. Locomotives must stop at grade crossings.
 37. Rates of fare.
 38. Legislature may alter or reduce fare.
 39. Penalty for excessive fare.
 40. Passengers refusing to pay fare may be ejected.
 41. Extra fare for sleeping car.
 42. Persons employed as drivers and conductors.
 43. Conductors and employes must wear badges.
 44. Checks for baggage.
 45. Penalties for injury to baggage.
 46. Unclaimed freight and baggage.
 47. Tickets and checks for connecting steamboats.
 48. Rights and liabilities as common carriers.
 49. Duties imposed.
 1. Switches.
 2. Warning signals.
 3. Guard posts.
 4. Automatic couplers.
 5. Automatic or other safety brake.
 6. Tools in passenger cars.
 7. Water.
 50. Railroad commissioners may approve other safeguards.
 51. Use of stoves or furnaces prohibited.
 52. Canada thistles to be cut.
 53. Riding on platform; walking along track.
 54. Corporations may establish ferries.
 55. Certain railroads may cease operations in winter.
 56. Mails.
 57. Corporations must make annual report.
 58. When conductors and brakemen may be policemen.
 59. Requisites to exercise of powers of future railroad corporations.

LIABILITY OF CORPORATION TO EMPLOYEES OF CONTRACTOR.

§ 30. An action may be maintained against any railroad corporation by any laborer for the amount due him from any contractor for the construction of any part of its road, for ninety or any less number of days' labor performed by him in constructing such road, if within twenty days thereafter a written notice shall have been served upon the corporation, and the action shall have been commenced after the expiration of ten days and within six months after the ser-

vice of such notice, which shall contain a statement of the month and particular days upon which the labor was performed and for which it was unpaid, the price per day, the amount due, the name of the contractor from whom due, and the section upon which performed, and shall be signed by the laborer or his attorney and verified by him to the effect that of his own knowledge the statements contained in it are true. The notice shall be served by delivering the same to an engineer, agent or superintendent having charge of the section of the road, upon which the labor was performed, personally, or by leaving it at his office or usual place of business with some person of suitable age or discretion; and if the corporation has no such agent, engineer or superintendent, or in case he can not be found and has no place of business open, service may in like manner be made on any officer or director of the corporation.

WEIGHT OF RAIL.

§ 31. The rail used in the construction or the relaying of the track of every railroad hereafter built or relaid in whole or in part, shall be of iron or steel, weighing not less than twenty-five pounds to the lineal yard on narrow gauge roads, and on all other roads not less than fifty-six pounds to the lineal yard on grades of one hundred and ten feet to the mile or under, and not less than seventy pounds to the lineal yard on grades of over one hundred and ten feet to the mile, except for turnouts, sidings and switches.

FENCES, FARM-CROSSINGS AND CATTLE-GUARDS.

§ 32. Every railroad corporation, and any lessee or other person in possession of its road, shall, before the lines of its roads are opened for use, and so soon as it has acquired the right of way for its roadway erect and thereafter maintain fences on the sides of its road of height and strength sufficient to prevent cattle, horses, sheep and hogs from going upon its roads from the adjacent lands with farm crossings and openings with gates therein at such farm crossings whenever and wherever reasonably necessary for the use of the owners and occupants of the adjoining lands, and shall construct where not already done, and hereafter maintain cattle-guards at all road crossings, suitable and sufficient to prevent cattle, horses, sheep and hogs from going upon its railroad. So long as such fences are not made, or are not in good repair, the corporation, its lessees or other person in possession of its road, shall be liable for all damages done by their agents or engines or cars to any domestic animals thereon. When made and in good repair, they shall not be

liable for any such damages, unless negligently or willfully done. A sufficient post and wire fence of requisite height shall be deemed a lawful fence within the provisions of this section, but barbed wire shall not be used in its construction. No railroad need be fenced, when not necessary to prevent horses, cattle, sheep and hogs from going upon its track from the adjoining lands. Every adjoining landowner, who, or whose grantor, has received compensation for fencing the line of land taken for a railroad, and has agreed to build and maintain a lawful fence along such line, shall build and maintain such fence. If such owner, his heir or assign shall not build such fence, or if built, shall neglect to maintain the same during the period of thirty days after he has been notified so to do by the railroad corporation, such corporation shall thereafter build and maintain such fence, and may recover of the person neglecting to build and maintain it the expense thereof. And when such railroad shall cross timbered or forest lands, the company shall construct and maintain suitable and sufficient crossings, whenever and wherever reasonably necessary to enable the respective owners of said lands, to transport logs, timber and lumber for manufacture or sale, or for banking on any stream, to be floated or driven down the same. In case of any neglect or dispute the supreme court may by mandamus or other appropriate proceedings, compel the same, and also fix the point or location of any such crossing. (*Thus amended by chap. 676, Laws 1892.*)

SIGN-BOARDS AND FLAGMEN AT CROSSINGS.

§ 33. Every railroad corporation shall cause boards to be placed, well supported and constantly maintained, across each traveled public road or street, where the same is crossed by its road at grade. They shall be elevated so as not to obstruct travel, and to be easily seen by travelers; and on each side shall be painted in capital letters, each at least nine inches in length and of suitable width, the words: "Railroad crossing; look out for the cars;" but such boards need not be put up in cities and villages, unless required by the officers having charge of the streets. At any point where a railroad crosses a street, highway, turnpike, plank-road, or traveled way at grade, or where a steam railroad crosses a horse railroad at grade, and the corporation owning or operating such railroad, refuses, upon request of the local authorities, to station a flagman or erect gates, to be opened and closed when an engine or train passes, the supreme court or the county court, may, upon the application of the local authorities and upon ten days' notice to the corporation, order that

a flagman be stationed at such point, or that gates shall be erected thereat, and that a person be stationed to open and close them when an engine or train passes, or may make such other order respecting the same as it deems proper. Whenever the crossing by a railroad at grade of the streets, highways, turnpikes, plank-roads, or traveled ways of any village or city, having a population by the last state or federal enumeration of less than fifty thousand, shall be protected by gates with persons to open and close the same, when an engine or train passes, the local authorities of the city or village shall not impose any limitation, less than forty miles an hour, on the rate of speed at which such engine or train shall be run, or enforce any existing limitation upon such rate of speed, less than forty miles an hour. (*Thus amended by chap. 676, Laws 1892.*)

NOTICE OF STARTING TRAINS ; NO PREFERENCES.

§ 34. Every railroad corporation shall start and run its cars for the transportation of passengers and property at regular times, to be fixed by public notice, and shall furnish sufficient accommodations for the transportation of all passengers and property which shall be offered for transportation at the place of starting, within a reasonable time previously thereto, and at the junctions of other railroads, and at the usual stopping places established for receiving and discharging way passengers and freight for that train; and shall take, transport and discharge such passengers and property at, from and to, such places on the due payment of the fare or freight legally authorized therefor. No station established by any railroad corporation for the reception or delivery of passengers or property, or both, shall be discontinued without the consent of the board of railroad commissioners first had and obtained. No preference for the transaction of the business of a common carrier upon its cars, or in its depots or buildings, or upon its grounds, shall be granted by any railroad corporation to any one of two or more persons, associations or corporations competing in the same business, or in the business of transporting property for themselves or others. Any such station in an incorporated village shall have the same name as the village; if any road shall have more than one such station in any such village, the station nearest the geographical center thereof shall have such name. (*Thus amended by chap. 676, Laws 1892.*)

ACCOMMODATION OF CONNECTING ROADS.

§ 35. Every railroad corporation whose road, at or near the same place, connects with or is intersected by two or more railroads competing for its business, shall fairly and impartially afford to each of

such connecting or intersecting roads equal terms of accommodation, privileges and facilities in the transportation of cars, passengers, baggage and freight over and upon its roads, and over and upon their roads, and equal facilities in the interchange and use of passenger, baggage, freight and other cars required to accommodate the business of each road, and in furnishing passage tickets to passengers who may desire to make a continuous trip over any part of its roads and either of such connecting roads. The board of railroad commissioners may, upon application of the corporation owning or operating either of the connecting or intersecting roads, and upon fourteen days' notice to the corporation owning or operating the other road, prescribe such regulations as will secure, in their judgment, the enjoyment of equal privileges, accommodations and facilities to such connecting or intersecting roads as may be required to accommodate the business of each road, and the terms and conditions upon which the same shall be afforded to each road. The decision of the commissioners shall be binding on the parties for two years, and the supreme court shall have power to compel the performance thereof by attachment, mandamus, or otherwise.

LOCOMOTIVES MUST STOP AT GRADE CROSSINGS.

§ 36. All trains and locomotives on railroads crossing each other at grade shall come to a full stop before crossing, not less than two hundred or more than eight hundred feet from the crossing, and shall then cross only when the way is clear and upon a signal from a watchman stationed at the crossing. If the corporations can not agree as to the expense of the watchman, it shall be determined by the supreme court, upon motion thereto by either of them. If the corporations disagree as to the precedence of trains, the board of railroad commissioners may, after hearing, upon the application of either corporation, prescribe rules in relation thereto. The full stop and crossing on signal may be discontinued if the board of railroad commissioners shall decide it to be impracticable, or if, with the approval of the commissioners, an interlocking switch and signal apparatus is adopted and put in operation at such a crossing. The full stop and crossing on signal shall not be required in depot yards, or the approaches thereto, if the crossing roads are under lease or subject to the same management or control in the use of tracks. An engineer, violating the foregoing provisions of this section, or any such rule of the railroad commissioners, shall be liable to a penalty of one hundred dollars; and any corporation or person operating the railroad, violating any of such provisions or rules shall be liable

to a penalty of five hundred dollars. No railroad corporation, or any officer, agent or employe thereof, shall stop its cars, horses, or locomotives upon a grade crossing of a railroad of another corporation, for the purpose of receiving or delivering passengers or freight, or other purpose, and any person or corporation violating this provision, shall be liable to a penalty of two hundred and fifty dollars.

See, also, chap. 239, Laws 1893, *post*.

RATES OF FARE

§ 37. Every railway corporation may fix and collect the following rates of fare as compensation to be paid for transporting any passenger and his baggage, not exceeding one hundred and fifty pounds in weight, for each mile or fraction of a mile:

1. Where the motive power is rope or cable, propelled by stationary power, five cents, with right to a minimum fare of ten cents; but if the railroad is less than two miles in length, and overcomes an elevation of five hundred feet or more to the mile, five cents for each one hundred feet of elevation so overcome, and the same rates of fare if the motive power is locomotives, furnished with cogs working into cogs on the railway, and the length of road does not exceed four miles.

2. If a road, not incorporated prior to May 15, 1879, and not located in the counties of New York or Kings, or within the limits of any incorporated city, and not more than twenty-five miles in length, five cents; if over twenty-five and not more than forty miles, four cents; and if over forty miles, three cents. Where by the laying down of a third rail upon a railroad of the ordinary gauge, a narrow-gauge track is created and used for the transportation of passengers, and the length of road does not exceed six miles, including any connecting road of the same gauge, such railroad, for the purpose of fare, shall be deemed a narrow-gauge road.

3. If its railroad overcomes an elevation of two hundred feet to the mile, for at least two consecutive miles, and does not exceed twenty miles in length, ten cents; if it overcomes an elevation exceeding three hundred feet to the mile, within a distance of two miles, five cents for each one hundred feet of elevation; and where it overcomes an elevation of more than one thousand feet, within a distance of two miles, seven cents for each one hundred feet of elevation in a mile.

4. If the line of its road does not exceed fifteen miles in length, and does not enter or traverse the limits of any incorporated city,

and the distance traveled thereon by the passenger does not exceed one mile, five cents.

5. In all other cases, three cents for every such mile or fraction thereof, with a right to a minimum single fare of not less than five cents.

This chapter shall not be construed to allow any rate of fare for way passengers greater than two cents per mile to be charged or taken over the track or tracks of the railroad known as the New York Central railroad company, and the rate of fare for way passengers over the track or tracks of such company shall continue to be two cents per mile and no more, wherever it is restricted to that rate of fare, nor shall any consolidated railroad corporation charge a higher rate of fare per passenger per mile, upon any part or portion of the consolidated line than was allowed by law to be charged by each existing corporation thereon previously to such consolidation. (*Thus amended by chap. 676, Laws 1892.*)

As to rate of fare for emigrants, see chapter 474, Laws of 1855, and section 626, Penal Code, *post*.

LEGISLATURE MAY ALTER OR REDUCE FARE.

§ 38. The legislature may, when any such railroad shall be open for use, from time to time, alter or reduce the rate of freight, fare or other profits upon such road; but the same shall not, without the consent of the corporation, be so reduced as to produce with such profits less than ten per centum per annum on the capital actually expended; nor unless on an examination of the amounts received and expended, to be made by the board of railroad commissioners, they shall ascertain that the net income derived by the corporation from all sources, for the year then last past, shall have exceeded an annual income of ten per cent. upon the capital of the corporation actually expended.

PENALTY FOR EXCESSIVE FARE

§ 39. Any railroad corporation, which shall ask or receive more than the lawful rate of fare, unless such overcharge was made through inadvertence or mistake, not amounting to gross negligence, shall forfeit fifty dollars, to be recovered with the excess so received by the party paying the same; but no action can be maintained therefor, unless commenced within one year after the cause of action accrued.

PASSENGER REFUSING TO PAY FARE MAY BE EJECTED.

§ 40. If any passenger shall refuse to pay his fare the conductor of the train, and the servants of the corporation, may put him and his

baggage out of the cars, using no unnecessary force, on stopping the train, at any usual stopping place, or near any dwelling-house, as the conductor may elect.

SLEEPING AND PARLOR CARS.

§ 41. Any railroad corporation may contract with any person, association or corporation for the hauling by the special or regular trains of said railroad corporation, the parlor, drawing-room or sleeping car or cars of such person, association or corporation, in which extra accommodations shall be furnished, for which said person, association or corporation furnishing such parlor, drawing-room or sleeping car or cars, may charge for the carriage and transportation of persons and property therein a reasonable compensation for such extra accommodation, in addition to the fare and charges now allowed by law for the carriage and transportation of passengers and property in the ordinary cars of said railroad corporation. But said railroad corporation so contracting shall be liable in the same way and to the same extent as if the said car or cars were owned by it, and shall furnish sufficient ordinary cars for the reasonable accommodation of the traveling public. (*Thus amended by chap. 676, Laws 1892.*)

PERSONS EMPLOYED AS DRIVERS, CONDUCTORS, MOTORMEN OR GRIPMEN.

§ 42. Any railroad corporation may employ any inhabitant of the state, of the age of twenty-one years, not addicted to the use of intoxicating liquors, as a car driver, conductor, motorman or gripman, or in any other capacity, if fit and competent therefor. All applicants for positions as motormen or gripmen on any street surface railroad in this state shall be subjected to a thorough examination by the officers of the corporation as to their habits, physical ability and intelligence. If this examination is satisfactory, the applicant shall be placed in the shop or power house where he can be made familiar with the power and machinery he is about to control. He shall then be placed on a car with an instructor, and when the latter is satisfied as to the applicant's capability for the position of motorman or gripman, he shall so certify to the officers of the company, and, if appointed, the applicant shall first serve on the lines of least travel. Any violation of the provisions of this section shall be a misdemeanor. (*Thus amended by chap. 513, Laws 1895.*)

See section 420, Penal Code, *post.* Also, section 41, Liquor Tax Law, *post.*

CONDUCTORS AND EMPLOYEES MUST WEAR BADGES.

§ 43. Every conductor and employe of a railroad corporation employed in a passenger train, or at stations for passengers, shall

wear upon his hat or cap a badge, which shall indicate his office or employment, and the initial letters of the corporation employing him. No conductor or collector without such badge shall demand or receive from any passenger any fare or ticket or exercise any of the powers of his employment. No officer or employe without such badge shall meddle or interfere with any passenger, his baggage or property. (*Thus amended by chap. 676, Laws 1892.*)

See section 425, Penal Code, *post*.

CHECKS FOR BAGGAGE

§ 44. A check, made of some proper metallic substance of convenient size and form, plainly stamped with numbers, and furnished with a convenient strap or other appendage for attaching to baggage, shall be affixed to every piece or parcel of baggage when taken for transportation for a passenger by the agent or employe of such corporation, if there is a handle, loop or fixture therefor upon the piece or parcel of baggage, and a duplicate thereof given to the passenger or person delivering the same to him. If such check be refused on demand the corporation shall pay to the passenger the sum of ten dollars, and no fare shall be collected or received from him; and if he shall have paid his fare it shall be refunded to him by the conductor in charge of the train. Such baggage shall be delivered, without unnecessary delay, to the passenger or any person acting in his behalf at the place to which it was to be transported, where the cars usually stop, or at any other regular intermediate stopping place, upon notice to the baggage-master in charge of baggage on the train, of not less than thirty minutes, upon presentation of such duplicate check to the officer or agent of the railroad corporation, or of any corporation, over any portion of whose road it was transported. Bicycles are hereby declared to be and be deemed baggage for the purposes of this article and shall be transported as baggage for passengers by railroad corporations and subject to the same liabilities, and no such passenger shall be required to crate, cover or otherwise protect any such bicycle; provided, however, that a railroad corporation shall not be required to transport, under the provisions of this act, more than one bicycle for a single person. (*Thus amended by chap. 333, Laws of 1896.*)

PENALTIES FOR INJURIES TO BAGGAGE

§ 45. Any person, whose duty it is for or on behalf of the common carrier to handle, remove, or care for the baggage of passengers, who shall recklessly or wilfully injure or destroy any trunk, valise, box, bag, package or parcel, while loading, unloading, transporting, delivering or

storing the same, or any railroad corporation, which shall knowingly keep in its employment any such willful or reckless person, or which shall permit any injury or destruction of such property, through failure to provide sufficient help and facilities for the handling thereof, shall pay to the party injured thereby the sum of fifty dollars, in addition to such damages.

UNCLAIMED FREIGHT AND BAGGAGE

§ 46. Every railroad or other transportation corporation, doing business in this state, which shall have unclaimed freight or baggage, not live stock or perishable, in its possession for the period of sixty days may deliver the same to any warehouse company, or person or persons engaged in the warehouse business, within this state, and take a warehouse receipt for the storage thereof. Upon such delivery and upon taking such warehouse receipt, every such railroad or other transportation corporation shall be discharged of all liability in respect to any such unclaimed freight or baggage from and after such delivery. At any time within two years after such delivery, such railroad or other transportation corporation shall surrender and transfer such warehouse receipt to the owner of any such unclaimed freight or baggage upon demand, and upon payment of all charges and expenses for transportation and storage then due, if any, to any such railroad or other transportation corporation. Unclaimed live stock and perishable freight or baggage may be sold by any such railroad or other transportation corporation without notice, as soon as it can be, upon the best terms that can be obtained. All moneys arising from the sale of any such unclaimed live stock, perishable freight or baggage, after deducting therefrom all charges and expenses for transportation, storage, keeping, commissions for selling the property, and any amount previously paid for its loss or non-delivery, shall be deposited by the corporation making such sale, with a report thereof, and proof that the property was live stock or perishable freight, with the comptroller for the benefit of the general fund of the state, and shall be held by him in trust for reclamation by the person or persons entitled to receive the same. (*Thus amended by chap. 974, Laws of 1896.*)

TICKETS AND CHECKS FOR CONNECTING STEAMBOATS.

§ 47. The proprietors of any line of steamboats, terminating or stopping for passengers at any place where a railroad corporation has a depot or station, may furnish tickets and baggage checks to such corporation for the use of passengers, traveling over its road, who desire to connect with such line of boats at any such place, and the railroad corporation shall sell such tickets and deliver a duplicate of one of such checks to any such passenger applying therefor, and shall account for and pay over to the proprietor of such line of boats all moneys received by it for the sale of such tickets; and any such railroad corporation may furnish tickets and checks for bag-

gage to the proprietors of any such line of steamboats for the use of passengers traveling over any part of such line of boats, who desire to connect with the railroad of any such corporation at any such place, and such proprietors shall sell such tickets and deliver a duplicate of one of such checks to any such passenger applying therefor, and shall account for and pay over to such corporation all moneys received by them for the sale of such tickets. No greater rate of fare shall be charged by any railroad corporation to any such passenger for the distance traveled over its road than is charged to travelers for the same distance whose trip ends at the place where connection is made with any such line of boats, and no greater rate of fare shall be charged by the proprietors of any such steamboat line to any such passenger for the distance traveled over its line, than is charged to travelers for the same distance whose trip ends at the place where connection is made with any such railroad. Any additional cost of transfer of a passenger or his baggage from railroad depot or station to steamboat landing, or from steamboat landing to depot or station, shall be borne by the passenger or the proprietors of the steamboat line or the railroad corporation at whose instance or for whose benefit such transfer is made. Every railroad corporation and the proprietors of any line of steamboats, their agents or servants, who shall neglect or refuse to sell tickets or furnish a check to any passenger applying for the same, when the same shall have been furnished to them, shall pay to such passenger the sum of ten dollars and no fare or toll shall be collected from him for riding over such road or upon such boats, as the case may be; and in addition thereto any railroad corporation so neglecting or refusing, shall pay the proprietors of such line of boats two hundred and fifty dollars for each day it shall so neglect or refuse; and the proprietors of any such line of boats so neglecting or refusing, shall pay to such railroad corporation a like sum for each day they shall so neglect or refuse.

Every such railroad corporation shall also receive any freight which shall be delivered at any station on the line of its road, marked to go by way of boat or any particular line of boats from any station on its road at which such boat or line of boats terminates or stops for freight, and shall transport such freight with all convenient speed to such station, and on its arrival there cause the proprietors of the steamboat line by which it is directed to be sent, or their agent, to be notified of such arrival, and shall deliver such freight to such proprietors or their agent with the bill of charges thereon due such railroad corporation, for the payment of which charges the proprietor or

proprietors of such steamboat line shall be responsible, and shall account for and pay the same to such railroad corporation on demand. The railroad corporation shall not charge for the transportation of such freight over its road any greater sum pro rata than it charges for carrying the same kind of freight the same distance over its road, if it was to be transported by such corporation by rail to its final destination or to the terminus of the road of such corporation in case it terminates before such final destination is reached. Any freight delivered by the proprietors of any steamboat or steamboat line, or their authorized agent, at any station, at a place where such steamboat or steamboats have a landing, to any such railroad corporation for transportation over its road or any part thereof, shall be transported by such corporation to its place of destination for the same price pro rata which would be charged for the same kind of freight the same distance over its road, if the same had been taken on at the point of first shipment by boat, or at the terminus of the road of such corporation, in case it does not extend to the point of first shipment.

RIGHTS AND LIABILITIES AS COMMON CARRIERS.

§ 48. Every railroad corporation doing business in this state shall be a common carrier. Any one of two or more corporations owning or operating connecting roads, within this state, or partly within and partly without the state, shall be liable as a common carrier, for the transportation of passengers or delivery of freight received by it to be transported by it to any place on the line of a connecting road; and if it shall become liable to pay any sum by reason of neglect or misconduct of any other corporation it may collect the same of the corporation by reason of whose neglect or misconduct it became liable. (*Thus amended by chap. 676, Laws 1892.*)

SWITCHES; WARNING SIGNALS; GUARD-POSTS; AUTOMATIC COUPLERS; AUTOMATIC OR OTHER SAFETY BRAKE; TOOLS IN PASSENGER CAR; WATER.

§ 49. It shall be the duty of every railroad corporation operating its road by steam :

1. To lay, in the construction of new and in the renewal of existing switches, upon freight or passenger main line tracks, switches on the principle of either the so-called Tyler, Wharton, Lorenze, or split-point switch, or some other kind of safety switch, which shall prevent the derailment of a train, when such switch is misplaced, or a switch interlocked with distant signals.

2. To erect and thereafter maintain such suitable warning signals at every road, bridge, or structure which crosses the railroad above the tracks, where such warning signals may be necessary, for the protection of employes on top of cars from injury.

3. To place guard-posts in the prolongation of the line of bridge trusses so that in case of derailment, the posts, and not the bridge trusses, shall receive the blow of the derailed locomotive or car.

4. To use upon every new freight car, built or purchased for use, couplers which can be coupled and uncoupled automatically, without the necessity of having a person guide the link, lift the pin by hand, or go between the ends of the cars.

5. To attach to every car used for passenger transportation an automatic air-brake or other form of safety-power brake, applied from the locomotive, excepting cars attached to freight trains, the schedule rate of speed of which does not exceed twenty miles an hour.

6. To provide each closed car in use in every passenger train owned or regularly used upon a railroad, with one set of tools, consisting of an axe, sledge-hammer, crowbar, and handsaw, to be properly placed so as to be easily removed.

7. To provide, in each passenger car, where the line of road shall exceed forty continuous miles in length, a suitable receptacle for water, with a cup or drinking utensil attached upon or near such receptacle, and to keep such receptacle, while the car is in use, constantly supplied with cool water.

Every corporation, person or persons, operating such railroad, and violating any of the provisions of this section, except subdivision seven shall be liable to a penalty of one hundred dollars for each offense and the further penalty of ten dollars for each day that it shall omit or neglect to comply with any of such provisions. For every violation of the provisions of the seventh subdivision of this section every such corporation shall be liable to a penalty of twenty-five dollars for each offense.

As to automatic brakes and couplers, *see, also*, chaps. 543 and 544, Laws 1893. *post.* See section 424, Penal Code, *post.*

RAILROAD COMMISSIONERS MAY APPROVE OTHER SAFEGUARDS.

§ 50. The board of railroad commissioners may, on the application of any railroad corporation, authorize it to use any other safeguard or device approved by the board, in place of any safeguard or device required by this article which shall thereafter be used in lieu thereof, and the same penalties for neglect or refusal to use the same shall be

incurred and imposed as for a failure to use the safeguard or device hereinbefore required, in lieu of which the same is to be used.

USE OF STOVES OR FURNACES PROHIBITED.

§ 51. It shall not be lawful for any railroad corporation, operating a steam railroad in this state, of the length of fifty miles or more, excepting foreign railroad corporations, incorporated without the jurisdiction of the United States, running cars upon tracks in this state for a distance of less than thirty miles, to heat its passenger cars, on other than mixed trains, excepting dining-room cars, by any stove or furnace kept inside the car, or suspended therefrom, unless in case of accident or other emergency, when it may temporarily use such stove or furnace with necessary fuel, in cars which have been equipped with apparatus to heat by steam, hot water or hot air from the locomotive, or from a special car, the present stove may be retained to be used only when the car is standing still, and no stove or furnace shall be used in a dining-room car, except for cooking purposes, and of pattern and kind to be approved by the railroad commissioners. This section shall not be held to affect or interfere with the use by the commissioners of fisheries of this or other states, or of the United States, of stoves for heating or cooking or boilers for hatching operations in their fish car or cars. Any person or corporation, violating any of the provisions of this section, shall be liable to a penalty of one thousand dollars, and to the further penalty of one hundred dollars for each and every day during which such violation shall continue. (*Thus amended by chap. 299, Laws of 1896.*)

See section 423, Penal Code, *post*.

CANADA THISTLES TO BE CUT.

§ 52. Every railroad corporation doing business within this state, shall cause all Canada thistles, white and yellow daisies and other noxious weeds growing on any lands owned or occupied by it, to be cut down twice in each and every year, once between the fifteenth day of June and the twenty-fifth day of June, and once between the fifteenth day of August and the twenty-fifth day of August. If any such corporation shall neglect to cause the same to be so cut down, any person may cut the same, between the twenty-fifth day of June and the fifth day of July inclusive, and between the twenty-fifth day of August and the fifth day of September inclusive in each year, at the expense of the corporation on whose lands the same shall be so cut, at the rate of three dollars per day for the time occupied in cutting.

RIDING ON PLATFORM; WALKING ALONG TRACK

§ 53. No railroad corporation shall be liable for any injury to any passenger while on the platform of a car, or in any baggage, wood or freight car, in violation of the printed regulations of the corpora-

tion, posted up at the time in a conspicuous place inside of the passenger cars, then in the train, if there shall be at the time sufficient room for the proper accommodation of the passenger inside such passenger cars. No person other than those connected with or employed upon the railroad shall walk upon or along its track or tracks, except where the same shall be laid across or along streets or highways, in which case he shall not walk upon the track unless necessary to cross the same. Any person riding, leading or driving any horse or other animal upon any railroad, or within the fences and guards thereof, other than at a farm or street or forest crossing, without the consent of the corporation, shall forfeit to the people of the state the sum of ten dollars, and pay all damages sustained thereby to the party aggrieved. (*Thus amended by chap. 676, Laws 1892.*)

CORPORATIONS MAY ESTABLISH FERRIES.

§ 54. Any steam railroad corporation, incorporated under the laws of this state, with a terminus in the harbor of New York, may purchase or lease boats propelled by steam or otherwise, and operate the same as a ferry or otherwise, over the waters of the harbor of New York, but this section shall not be construed to affect the rights of the cities of New York and Brooklyn. (*Thus amended by chap. 676, Laws 1892.*)

CERTAIN RAILROADS MAY CEASE OPERATION IN WINTER.

§ 55. The directors of any railroad corporation operating a railroad, constructed and used principally for transporting lumber or ores, during the summer months, or for summer travel, may, by a resolution duly passed at a meeting thereof, apply to the board of railroad commissioners for permission to cease the operation of their road during the winter season for a period not exceeding seven months in any one year, specifying the date of such suspension, and the date of the reopening thereof; and such board may, in their discretion, make an order granting the application wholly or in part, and thereupon such railroad corporation shall be relieved of the duty of operating its road during the period specified in the order. A copy of such order shall be posted in all the depots and at the termini of such railroad, and published in every newspaper in each town in any part of which such road shall be constructed at least four weeks prior to the date of such suspension.

See section 21, Railroad Law, *ante*.

MAILS.

§ 56. Any railroad corporation shall, when applied to by the postmaster-general, convey the mails of the United States on its road,

and in case such corporation and the postmaster-general shall not agree as to the rate of transportation therefor, and as to the time, rate of speed, manner and condition of carrying the same, the board of railroad commissioners shall fix the prices, terms and conditions therefor, after giving the corporation a reasonable opportunity to be heard. Such price shall not be less for carrying such mails in the regular passenger trains than the amount which such corporation would receive as freight on a like weight of merchandise transported in their merchandise trains, and a fair compensation for the post-office car. If the postmaster-general shall require the mail to be carried at other hours, or at higher speed than the passenger trains are run, the corporation shall furnish an extra train for the mail, and be allowed an extra compensation for the expenses and wear and tear thereof, and for the service to be fixed as herein provided.

Every railroad corporation refusing or neglecting to comply with any provision of this section shall forfeit to the people of the state one hundred dollars for every day such neglect or refusal continues. (*Thus amended by chap. 676, Laws 1892.*)

§ 11

CORPORATIONS MUST MAKE ANNUAL REPORT.

§ 57. Every person or corporation owning, leasing, operating or in possession of a railroad, wholly or partly, in this state, shall make an annual report to the board of railroad commissioners of its operations for the year ending with June thirtieth, and of its condition on that day, which shall be verified by the oaths of the president, or treasurer, and the general manager, or acting superintendent, and shall be filed in the office of such board on or before September first in each year. Every such person or corporation shall make quarterly and further reports to such board in the form and within the time prescribed by it. Such board may in its discretion change the date of the annual report and of filing the same, but the length of time between the date of the annual report and the filing of the same shall not be less than herein prescribed. Any person or railroad corporation which shall neglect to make any such report, or which shall fail to correct any such report within ten days after notice by the board of railroad commissioners, shall be liable to a penalty of two hundred and fifty dollars and an additional penalty of twenty-five dollars for each day after September first on which it shall neglect to file the same, to be sued for in the name of the people of the state of New York, for their use.

The board of railroad commissioners may extend the time herein limited for cause shown. (*Thus amended by chap. 676, Laws 1892.*)

See section 158, Railroad Law, *post.* Also, sections 416, 602 and 611, Penal Code, *post.*

WHEN CONDUCTORS AND BRAKEMEN MAY BE POLICEMEN.

§ 58. The governor may appoint any conductor or brakeman on any train conveying passengers on any steam railroad in this state, a policeman, with all the powers of a policeman in cities and villages, for the preservation of order and of the public peace, and the arrest of all persons committing offenses upon the land or property of the corporation owning or operating such railroad; and he may also appoint, on the application of any such corporation or of any steamboat company, such additional policemen, designated by it, as he may deem proper, at any station, who shall have the same powers, but not more than one at any one station. Every such policeman shall, within fifteen days after receiving his commission, and before entering upon the duties of his office, take and subscribe the constitutional oath of office, and file it with his commission in the office of the secretary of state, who shall thereupon transmit to the county clerk of each county in which such policeman is authorized to act a certificate, under his hand and official seal, setting forth the appointment and the filing of the commission and oath, which certificate shall be filed by the county clerk. Every such policeman shall, when on duty, wear a metallic shield with the words "Railway police," or "Steamboat police," as the case may be, and the name of the corporation for which appointed inscribed thereon, which shall always be worn in plain view, except when employed as a detective. The compensation of every such policeman shall be such as may be agreed upon between him and the corporation for which he is appointed and shall be paid by the corporation. When any corporation shall no longer require the services of any such policeman, they may file notice to that effect in the several offices in which notice of his appointment was originally filed, and thereupon such appointment shall cease and be at an end.

REQUISITES TO EXERCISE OF POWERS OF FUTURE RAILROAD CORPORATIONS.

§ 59. No railroad corporation hereafter formed under the laws of this state shall exercise the powers conferred by law upon such corporations or begin the construction of its road until the directors shall cause a copy of the articles of association to be published in one or more newspapers in each county in which the road is proposed to be located, at least once a week for three successive weeks, and shall file satisfactory proof thereof with the board of railroad commissioners; nor until the board of railroad commissioners shall certify that the foregoing conditions have been complied with, and

also that public convenience and a necessity require the construction of said railroad as proposed in said articles of association. The foregoing certificate shall be applied for within six months after the completion of the three weeks' publication hereinbefore provided for. If certificate is refused no further proceedings shall be had before said board, but the application may be renewed after one year from the date of such refusal. Prior to granting or refusing said certificate the board shall have a right to permit errors, omissions or defects to be supplied and corrected. After a refusal to grant such certificate the board shall certify a copy of all maps and papers on file in its office and of the findings of the board when so requested by the directors aforesaid. Such directors may thereupon present the same to a general term of the supreme court of the department within which said road is proposed in whole or in part to be constructed, and said general term shall have power, in its discretion, to order said board, for reasons stated, to issue said certificate, and it shall be issued accordingly. Such certificate shall be filed in the office of the secretary of state and a copy thereof, certified to be a copy by the secretary of state, or his deputy, shall be evidence of the fact therein stated. Nothing in this section shall prevent any such railroad corporation from causing such examinations and surveys for its proposed railroad to be made as may be necessary to the selection of the most advantageous route; and for such purpose by its officers or agents and servants, to enter upon the lands or water of any person, but subject to the responsibility for all damages which shall be done thereto. (*Thus amended by chap. 545, Laws of 1895.*)

ARTICLE III.

CONSOLIDATION, LEASE, SALE AND REORGANIZATION.

SECTION 70. Consolidation of corporations owning continuous lines.

71. Conditions.

1. Joint agreement; amount of capital stock.

2. Agreement to be submitted to meeting of stockholders.

72. New corporation.

73. Creditors' rights not to be impaired.

74. Assessment of property of new corporation.

75. Stock of municipal corporation, how represented.

76. Foreclosure of mortgages made by consolidated railroads partly in the state.

77. Powers of corporation of other states.

78. Lease of road.

79. Lessees of railroad may acquire stock therein.

SECTION 80. Consolidation and lease of parallel lines prohibited.

- 81. Mortgagees may purchase at foreclosure sale.
- 82. Certificates of stock may be issued after foreclosure in certain cases.
- 83. Liabilities of reorganized railroad corporations.
- 84. Application of "this act" to consolidated companies.

CONSOLIDATION OF CORPORATIONS OWNING CONTINUOUS LINES.

§ 70. Any railroad or other corporation, organized under the laws of this state, or of this state and any other state, and owning or operating a railroad, bridge or tunnel, either wholly within or partly within and partly without the state, or whose lines or routes of road have been located but not constructed, may merge and consolidate its capital stock, franchises, and property with the capital stock, franchises and property of any other railroad, tunnel or bridge corporation or corporations organized under the laws of this state or of this state and any other state, or under the laws of any other state or states, whenever the two or more railroads of the companies or corporations so to be consolidated, tunnels, bridges or branches or any part thereof, or the line or routes of their road, if not constructed, shall or may form a continuous or connected line of railroad with each other or by means of any intervening railroad bridge, tunnel or ferry and any such consolidated corporation may thereupon construct or finish the construction of such continuous line of railroad, if not previously constructed, and operate the same, subject to all provisions of laws applicable to such railroad corporations. Where the road to be operated is in whole or in part a tunnel or subsurface road, authorized by section 16 of this chapter, its consolidation with another road or roads under the provisions of this section shall not prevent any connecting railroad from having equal rights of transit for its passengers and freight through or over the tunnel or bridge of any such road, upon the same equitable terms, nor shall such consolidation be made where such tunnel or subsurface road exceeds five miles in length. (*Thus amended by chap. 676, Laws 1892.*)

CONDITIONS.

§ 71. Such consolidation shall be made in the following manner:

JOINT AGREEMENT; AMOUNT OF CAPITAL STOCK.

1. The directors of the corporations proposing to consolidate may enter into a joint agreement, under the corporate seal of each cor-

poration, for the consolidation of such corporations, and prescribing the terms and conditions thereof, the mode of carrying the same into effect, the name of the new corporation, the number and names of the directors and other officers thereof, and who shall be the first directors and officers and their places of residence, the number of shares of the capital stock, the amount or par value of each share, and the manner of converting the capital stock of each corporation into that of the new corporation, and how and when the directors and officers shall be chosen, with such other details as they shall deem necessary to perfect such new organization and the consolidation of such corporations. But in no case shall the capital stock of the corporation formed by such consolidation exceed the sum of the capital stock of the corporations so consolidated, at the par value thereof. Nor shall any bonds or other evidences of debt be issued as a consideration for, or in connection with, such consolidation.

AGREEMENT TO BE SUBMITTED TO MEETING OF STOCKHOLDERS.

2. If stockholders owning two-thirds of all the stock of each of such corporations shall, by a consent in writing, acknowledged as are deeds entitled to be recorded and indorsed upon said lease or agreement, signify their assent thereto, it shall be deemed and taken as the adoption of such agreement by and on behalf of such corporation, and the original or a certified copy thereof shall be filed as hereinafter provided. If such agreement shall not be consented to in writing, by holders of two-thirds of the stock of either of such corporations as hereinbefore provided, such agreement shall be submitted to the stockholders of each of such corporations at a meeting thereof called separately for the purpose of taking the same into consideration. Due notice of the time and place of holding such meeting, and the object thereof, shall be given by each corporation to its stockholders by written or printed notices addressed to each of the persons in whose names the capital stock of such corporation stands on the books thereof, and delivered to such persons respectively, or sent to them by mail, when their post-office address is known to the corporation, at least thirty days before the time of holding such meeting, and also by a general notice published at least once a week for four weeks successively in some newspaper printed in the city, town or county where such corporation has its principal office or place of business. At such meeting of stockholders such agreement shall be considered, and a vote by ballot taken for the adoption or rejection of the same, and if the

votes of the stockholders owning at least two-thirds of the stock of each corporation present and voting in person or by proxy shall be for the adoption of such agreement, then that fact shall be certified thereon by the secretaries of the respective corporations, under the seal thereof, and the agreement so adopted, or a certified copy thereof shall be filed in the office of the secretary of state, and in the office of the clerk of the county where the new corporation is to have its principal place of business, and shall from thence be deemed and taken to be the agreement and act of consolidation of such corporations, and thereafter such corporations, parties thereto, shall be one corporation by the name provided in such agreement, but such act of consolidation shall not release such new corporation from any of the restrictions, liabilities or duties of the several corporations so consolidated. (*Thus amended by chap. 676, Laws 1892.*)

NEW CORPORATION.

§ 72. Upon the consummation of such act of consolidation all the rights, privileges, exemptions and franchises of each of the corporations, parties to the same, and all the property, real, personal and mixed, and all the debts due on whatever account to either of them, as well as all stock subscriptions and other things in action belonging to either of them shall be taken and deemed to be transferred to and vested in such new corporation, without further act or deed; and all claims, demands, property, rights of way, and every other interest shall be as effectually the property of the new corporation as they were of the former corporations, parties to such agreement and act; and the title to all real estate, taken by deed or otherwise, under the laws of this state, vested in either of such corporations, parties to such agreement and act, shall not be deemed to revert or be in any way impaired by reason of this act, or anything done by virtue thereof, but shall be vested in the new corporation by virtue of such act of consolidation. And it shall be lawful for any railroad company or corporation, now or hereafter formed by the consolidation of one or more railroad companies or corporations organized under the laws of this state, or under the laws of this state and other states, with one or more railroad companies or corporations organized under the laws of any other state, or of the laws of this state and other states to issue its bonds for the purpose of paying or retiring any bonds theretofore issued by either of said companies or corporations so consolidated, or for any purpose and to the amount authorized by

the laws of the state under which either of said companies or corporations so consolidated was organized, and secure the same by a mortgage upon its real or personal property, franchises, rights and privileges, whether within or without this state, and subject to the remedies for the enforcement of the same under the laws of either of said states. Nothing in this act contained shall authorize the execution of any such mortgage without the consent of the stockholders as now required by the laws of this state, nor compel any bondholder to accept payment in whole or in part of any bond or bonds held by him or to surrender the same before they shall become due. (*Thus amended by chap. 362, Laws 1891.*)

CREDITORS' RIGHTS NOT TO BE IMPAIRED.

§ 73. The rights of all creditors of, and all liens upon the property of, either of such corporations, parties to such agreement and act, shall be preserved unimpaired, and the respective corporations shall be deemed to continue in existence to preserve the same, and all debts and liabilities incurred by either of such corporations shall thenceforth attach to such new corporation, and be enforced against it and its property to the same extent as if incurred or contracted by it. No actions or proceedings in which either of such corporations is a party shall abate or be discontinued by such agreement and act of consolidation, but may be conducted to final judgment in the names of such corporations, or such new corporation may be, by order of the court, on motion substituted as a party.

ASSESSMENT OF PROPERTY OF NEW CORPORATION.

§ 74. The real estate of such new corporations, situate within this state, shall be assessed and taxed in the several towns and cities where the same shall be situated in *like* manner as the real estate of other railroad corporations is or may be taxed and assessed, and such proportion of the capital stock and personal property of such new corporation, shall in like manner be assessed and taxed in this state, as the number of miles of its railroad situate in this state bears to the number of miles of its railroad situate in the other state or states.

STOCKS OF MUNICIPAL CORPORATIONS, HOW REPRESENTED.

§ 75. At any meeting of the stockholders of any railroad corporation to consider any agreement or proposition to consolidate or lease, the commissioners or other officers of any municipal corporation holding or having charge of any of the capital stock of such railroad corporation shall represent such municipal corporation, and may act

and vote in person or by proxy on all matters relating to such consolidation or lease in the same manner as individual stockholders. (*Thus amended by chap. 546, Laws of 1893.*)

**FORECLOSURE OF MORTGAGES MADE BY (CONSOLIDATED)
RAILROADS PARTLY IN THE STATE.**

§ 76. Whenever a railroad corporation of this or of any other state or states whose line of road lies partly in this state and partly in another state or states, shall have executed a mortgage upon its entire line of railroad, and a sale of the entire line of road under such mortgage shall have been or may hereafter be ordered, adjudged and decreed by a court of competent jurisdiction of the state or states, or by a court of the United States sitting within the state or states in which the greater part of such line of railroad may be situated, upon the confirmation of such judgment or decree, and of the sale made thereunder, by the supreme court of this state or by the circuit court of the United States in the judicial district in which some part of such line of road is situated, such sale shall operate to pass title to the purchaser, of that part of the line of railroad lying in this state, together with its appurtenances and franchises, with the same force and effect as if the judgment or decree under which such sale is had, had been made by a court of competent jurisdiction of this state. Such judgment or decree and sale may be so ordered, adjudged, decreed or confirmed in any action or proceeding heretofore or hereafter brought in the supreme court, or in a court of the United States sitting in this state, for the foreclosure of such mortgage, or in aid of an action for that purpose in such other state or states, if it shall appear that such confirmation is for the interest of the public and of the parties, due and lawful provision being made for and in respect of any liens upon that part of the line of road or other property sold situate in this state, and for such costs, expenses, and charges which may appear to be just and lawful. If a receiver of the entire line of such railroad shall have been, or may hereafter be appointed by such court of competent jurisdiction of the state in which the greater part of the line of railroad is situated, or by a court of the United States sitting in such other state, such receiver may perform, within this state, the duties of his office not inconsistent with the laws of this state, and may sue and be sued in the courts of this state. (*Thus amended by chap. 356, Laws of 1896.*)

POWERS OF CORPORATIONS ORGANIZED TO ACQUIRE AND OPERATE RAILROADS PARTLY IN THE STATE

§ 77. A railroad corporation created under the laws of the state or states in which the greater part of the line of its railroad may be situated, or a railroad corporation created under the railroad law, or under article one of the stock corporation law in this state, for the purpose of taking title to, and operating, the line of road as so sold, under a judgment or decree of a court of this state, or of a court of the United States sitting in this state, for the foreclosure of a mortgage, with its franchises and appurtenances, may hold, possess and operate not only those parts of the railroad lying in other states, but also that part of the line of such railroad lying in this state, and shall be subject to the duties and liabilities to which such corporation was, by the laws of this state, subject, and to such further or other duties and liabilities as are now or may hereafter be imposed by law upon railroad corporations of this state, and the provisions of the stock corporation law concerning reorganization of corporations shall apply to, and in respect of, every such successor railroad corporation. An exemplified copy of the certificate or certificates of incorporation, under and by virtue of which any such corporation is created in any other state, and a certified copy of the judgment or decree of any court sitting in any other state, under which said railroad shall have been sold, and a certified copy of the order or judgment or decree of confirmation and approval required by the preceding section, or of the order, judgment or decree of the court of this state, or of the United States in this state, which decreed the sale, confirming the same, shall be filed in the office of the secretary of state for this state, and in the office of the county clerk of the county where its principal business office in this state is or shall be located. (*Thus amended by chap. 356, Laws of 1896.*)

§ 3 of chap. 356, Laws of 1896. This act shall take effect immediately, and shall apply in respect of decrees, foreclosures, sales, confirmations, reorganizations and incorporations, whether heretofore or hereafter made, provided, however, that nothing in this act shall affect any action or proceeding pending in any court, on or before the first day of April, eighteen hundred and ninety-six; to establish the invalidity of any foreclosure or reorganization theretofore had, or to enforce any judgment or claim arising before such foreclosure or reorganization.

LEASE OF ROAD.

§ 78. Any railroad corporation or any corporation owning or operating any railroad or railroad route within this state may contract with any other such corporation for the use of their respective roads or routes, or any part thereof, and thereafter use the same in such manner and for such time as may be prescribed in such contract. Such contract may provide for the exchange or guaranty of the stock and bonds of either of such corporations by the other and shall be executed by the contracting corporations under the corporate seal of each corporation, and if such contract shall be a lease of any such road and for a longer period than one year, such contract shall not be binding or valid unless approved by the votes of stockholders owning at least two thirds of the stock of each corporation which is represented and voted upon in person or by proxy at a meeting, called separately for that purpose upon a notice stating

the time, place and object of the meeting, served at least thirty days previously upon each stockholder personally, or mailed to him at his post-office address, and also published at least once a week, for four weeks successively, in some newspaper printed in the city, town or county where such corporation has its principal office, and there shall be indorsed upon the contract the certificate of the secretaries of the respective corporations under the seals thereof, to the effect that the same has been approved by such votes of the stockholders, and the contract shall be executed in duplicate and filed in the offices where the certificates of incorporation of the contracting corporations are filed. The road of a corporation cannot be used under any such contract in a manner inconsistent with the provisions of law applicable to its use by the corporation owning the same at the time of the execution of the contract. Such contract shall be executed by the corporations, parties thereto, and proved and acknowledged in such manner as to entitle the same to be recorded in the office of the clerk or register of each county through or into which the road so to be used shall run. Nothing in this section shall apply to any lease in existence prior to May first, eighteen hundred and ninety-one. (*Thus amended by chap. 433, Laws 1893.*)

LESSEES OF RAILROAD MAY ACQUIRE STOCK THEREIN.

§ 79. Any railroad corporation created by the laws of this state, or its successors, being the lessee of the road of any other railroad corporation, may take a surrender or transfer of the capital stock of the stockholders, or any of them in the corporation whose road is held under lease, and issue in exchange therefor the like additional amount of its own capital stock at par, or on such other terms and conditions as may be agreed upon between the two corporations; and whenever the greater part of the capital stock of any such corporation shall have been so surrendered or transferred, the directors of the corporation taking such surrender or transfer shall thereafter, on a resolution electing so to do, to be entered on their minutes, become ex-officio the directors of the corporation whose road is so held under lease, and shall manage and conduct the affairs thereof, as provided by law; and whenever the whole of such capital stock shall have been so surrendered or transferred, and a certificate thereof filed in the office of the secretary of state, under the common seal of the corporation to whom such surrender or transfer shall have been made, the estate, property, rights, privileges and franchises of the corporation whose stock shall have been so surrendered or transferred, shall thereupon vest in and be held and enjoyed by

the corporation, to whom such surrender or transfer shall have been made, as fully and entirely, and without change or diminution, as the same were before held and enjoyed, and be managed and controlled by the board of directors of the corporation, to whom such surrender or transfer of such stock shall have been made, and in the corporate name of such corporation. Where stock shall have been so surrendered or transferred, the existing liabilities of the corporation, and the rights of the creditors and of any stockholder not surrendering or transferring his stock, shall not be affected thereby.

CONSOLIDATION AND LEASE OF PARALLEL LINES PROHIBITED.

§ 80. No railroad corporation or corporations owning or operating railroads whose roads run on parallel or competing lines, except street surface railroad corporations, shall merge or consolidate, or enter into any contract for the use of their respective roads, or lease the same, the one to the other, unless the board of railroad commissioners of the state or a majority of such board shall consent thereto. (*Thus amended by chap. 676, Laws 1892.*)

MORTGAGEE MAY PURCHASE AT FORECLOSURE SALE

§ 81. Any mortgagee of the property and franchises of any railroad corporation may become the purchaser of the same at any sale thereof under the mortgage, upon foreclosure by advertisement, or under a judgment, or decree, or otherwise, and hold and use the same, with all the rights and privileges belonging thereto or connected therewith for the period of six months, and convey the same to any railroad corporation.

CERTIFICATES OF STOCK MAY BE ISSUED AFTER FORECLOSURE IN CERTAIN CASES.

§ 82. If any person or corporation shall be entitled to certificates of stock subscribed to and paid for in any railroad corporation whose property and franchises have been sold under mortgage foreclosure, and such certificates have not been issued before foreclosure, the officers of the corporation shall, at any time within six months after the foreclosure sale issue and deliver to the person or corporation entitled thereto, upon demand, such certificates of stock, which shall have all the force and effect and confer upon the holder all the rights which he would have had if such certificates of stock had been issued at the time of the payment of the subscription thereto.

LIABILITIES OF REORGANIZED RAILROAD CORPORATIONS.

§ 83. A railroad corporation, reorganized under the provisions of law, relating to the formation of new or reorganized corporations upon the sale of their property or franchise, shall not be compelled or required to extend its road beyond the portion thereof constructed, at the time the new or reorganized corporation acquired title to such railroad property and franchise, provided the board of railroad commissioners of the state shall certify that in their opinion the public interests under all the circumstances do not require such extension. If such board shall so certify and shall file in their office such certificate, which certificate shall be irreversible by such board, such corporation shall not be deemed to have incurred any obligation so to extend its road and such certificate shall be a bar to any proceedings to compel it to make such extension or to annul its existence for failure so to do, and shall be final and conclusive in all courts and proceedings whatever. This section shall not authorize the abandonment of any portion of a railroad which has been constructed and operated, or apply to Kings county.

APPLICATION OF "THIS ACT" TO CONSOLIDATED COMPANIES.

§ 84. All the provisions contained in the several sections of this act shall extend, apply to and cover the consolidation, lease, sale or reorganization of any railroad or other corporation heretofore or hereafter organized, under the laws of this state, and any other state or country, to build, lease, buy, sell, maintain or operate any of the lines or routes of railroads, tunnels, bridges, ferries or branches or any part thereof mentioned in this article, and any similar lines or routes of railroad, tunnels, bridges, ferries or any part thereof, constructed or to be located and constructed in any foreign country. (*This section added by chap. 921, Laws of 1895.*)

ARTICLE IV.**STREET SURFACE RAILROADS.**

SECTION 90. Street surface railroads ; general provision.

91. Consent of property owners and local authorities.

92. Consent of local authorities ; how procured.

93. Condition upon which consent shall be given ; sale of franchise at public auction.

94. Proceedings if property owners do not consent.

95. Percentage of gross receipts to be paid in cities or villages ; report of officers.

SECTION 96. Extension of route over rivers ; terminus in other counties ; when property owners withhold consent ; supreme court may appoint commissioners.

97. Use of tracks of other roads.

98. Repair of streets ; rate of speed ; removal of ice and snow.

99. Within what time road to be built.

100. Motive power.

101. Rate of fare.

102. Construction of road in streets where other road is built.

103. Abandonment of part of route.

104. Contracting corporations to carry for one fare ; penalty.

105. Effect of dissolution of charter as to consents.

106. Corporate rights saved in case of failure to complete road ; right to operate branches ; conditions ; former consent ratified ; limitations.

107. When sand may be used on tracks.

108. Road not to be constructed upon grounds occupied by public buildings or in public parks.

109. Center-bearing rails prohibited.

110. Right to cross bridge substituted for bridge crossed for five years.

STREET SURFACE RAILROADS ; GENERAL PROVISIONS.

§ 90. The provisions of this article shall apply to every corporation which, under the provisions thereof, or of any other law, has constructed or shall construct or operate, or has been or shall be organized to construct or operate, a street surface railroad, or any extension or extensions, branch or branches thereof, for public use in the conveyance of persons and property for compensation, upon and along any street, avenue, road, highway, or private property, in any city, town or village, or in any two or more civil divisions of the state, and every such corporation must comply with the provisions of this article. Any street surface railroad corporation, at any time proposing to extend its road, or to construct branches thereof, may, from time to time, make and file in each of the offices in which its certificate of incorporation is filed, a statement of the names and description of the streets, roads, avenues, highways and private property in or upon which it is proposed to construct, maintain or operate such extensions or branches. Upon filing any such statement and upon complying with the conditions set forth in section ninety-one of the railroad law, every such corporation shall have the power and privilege to construct, extend, operate and maintain such road, extensions or branches, upon and along the streets, avenues, roads, highways and private property named and described in its certificate of incorporation or in such statement. Every such corporation, before constructing any part of its road upon or through any private property described in its articles of

association or certificate of incorporation or statement, and before instituting any proceeding for the condemnation of any real property, shall make a map and profile of the route adopted by it upon or through any private property, which map and profile shall be certified by the president and engineer of the company, or a majority of its directors, and shall be filed in the office of the clerk of the county in which the road is to be constructed, and all provisions of section six of the act hereby amended so far as applicable shall apply to the route so located. If any such street surface railroad company is unable to agree for the purchase of any such real property, or of any right or easement therein required for the purpose of its railroad, or if the owner thereof shall be incapable of selling the same, or if, after diligent search and inquiry, the name and residence of such owner can not be ascertained, it shall have the right to acquire title thereto by condemnation in the manner and by the proceedings provided by the condemnation law. Nothing in this section shall be deemed to authorize a street railroad corporation to acquire real property within a city by condemnation. (*Thus amended by chap. 933, Laws of 1895.*)

See also chapter 679, Laws 1893, *post*.

CONSENT OF PROPERTY OWNERS AND LOCAL AUTHORITIES.

§ 91. A street surface railroad, or extensions or branches thereof, shall not be built, extended or operated unless the consent in writing acknowledged or proved as are deeds entitled to be recorded, of the owners, in cities and villages, of one-half in value, and in towns, not within the corporate limits of a city or village, of the owners of two-thirds in value, of the property bounded on, and also the consent of the local authorities having control of that portion of a street or highway upon which it is proposed to build or operate such railroad shall have been first obtained. The consents of property owners in one city, village or town, or in any other civil division of the state, shall not be of any effect in any other city, village or town, or other civil division of the state. Consents of property owners heretofore obtained to the building, extending, operating or change of motive power shall be effectual for the purposes therein mentioned and may be deemed to be sufficiently proved and shall be entitled to be recorded, whenever such consents shall have been signed, executed or acknowledged before an officer authorized by law to take acknowledgments of deeds, or before or in the presence of a subscribing witness, and without regard to whether or not the subscribing witness shall have affixed his signature in the presence of the subscriber, provided that the proof of such signing, execution

or acknowledgment shall have been made by such subscribing witness in the manner prescribed by chapter three, part two of the revised statutes. In cities the common council, acting subject to the power now possessed by the mayor to veto ordinances; in villages the board of trustees, and in towns the commissioner or commissioners of highways shall be the local authorities referred to; if in any city or county the exclusive control of any street, avenue or other property, which is to be used or occupied by any such railroad, is vested in any other authority, the consent of such authority shall also be first obtained. The value of the property above specified shall be ascertained and determined by the assessment-roll of the city, village or town in which it is situated, completed last before the local authorities shall have given their consent, except property owned by such city, village or town, or by the state of New York, or the United States of America, the value of which shall be ascertained and determined by making the value thereof to be the same as is shown by such assessment-roll to be the value of the equivalent in size and frontage of the adjacent property on the same street or highway; and the consent of the local authorities shall operate as the consent of such city, village or town as the owners of such property. (*Thus amended by chap. 855, Laws 1896.*)

CONSENT OF LOCAL AUTHORITIES; HOW PROCURED.

§ 92. The application for the consent of the local authorities shall be in writing, and before acting thereon such authorities shall give public notice thereof and of the time and place when it will first be considered, which notice shall be published daily in any city for at least fourteen days in two of its daily newspapers, if there be two, if not, in one, to be designated by the mayor, and in any village or town for at least fourteen days in a newspaper published therein, if any there shall be, and if none, then daily in two daily newspapers if there be two, if not, one published in the city nearest such village or town. Such consent must be upon the expressed condition that the provisions of this article pertinent thereto shall be complied with, and shall be filed in the office of the clerk of the county in which such railroad is located. Whenever the consent of the common council of a city is applied for, the first consideration, of which notice is hereby required, may be by committee of such common council. Any such notice, publication or consideration heretofore or hereafter given, made or had in substantial conformity with the requirements of this section, is and shall be sufficient notice, publication and consideration for all the purposes hereof

notwithstanding any conflicting provision of any local or special act or charter. (*Thus amended by chap. 434, Laws 1893.*)

CONDITIONS UPON WHICH CONSENT SHALL BE GIVEN; SALE OF FRANCHISE AT PUBLIC AUCTION.

§ 93. The consent of the local authorities in cities containing twelve hundred and fifty thousand inhabitants or more, according to the last federal census or state enumeration, must contain the condition that the right, franchise and privilege of using any street, road, highway, avenue, park or public place shall be sold at public auction to the bidder who will agree to give the city the largest percentage per annum of the gross receipts of such corporation, with a bond or undertaking in such form and amount* and with such conditions and sureties as may be required and approved by the comptroller or other chief fiscal office* of the city, for the fulfillment of such agreement and for the commencement and completion of its railroad within the times hereinafter designated according to the plan or plans and on the route or routes fixed for its construction. Whenever such consent shall provide for the sale at public auction of the right to construct and operate a branch or extension of an existing railroad, such consent shall provide that but one fare shall be exacted for passage over such branch or extension and over the line of road which shall have applied therefor; and further, that if such right shall be purchased by any corporation other than the applicant, that the gross receipts from joint business shall be divided in the proportion that the length of such extension or branch so sold shall bear to the entire length of the road which shall have applied therefor and of such branch or extension, and that if such right shall be purchased by the applicant, the percentage to be paid shall be calculated on such portion of its gross receipts as shall bear the same proportion to the whole value thereof as the length of such extension or branch shall bear to the entire length of its road. The bidder to whom such right, franchise and privilege may be sold must be a duly incorporated railroad corporation of this state, organized to construct, maintain and operate a street railroad in the city for which such consent may be given; but no such corporation shall be entitled to bid at such sale unless at least five days prior to the day fixed for such sale, or five days prior to the day to which such sale shall have been duly adjourned, the corporation shall have filed with the comptroller or other chief fiscal officer of the city, a bond in

* So in the original.

writing and under seal, with sufficient sureties to be approved by such comptroller or officer, conditioned that if such right, franchise and privilege shall be sold to such corporation, to pay to the city where such railroad is situated the sum of fifty thousand dollars as liquidated damages and not by way of penalty in the event of the failure of such bidder to fulfill the terms of sale, comply with the provisions of this article pertinent thereto, and complete and operate its railroad according to the plan or plans and upon the route or routes fixed for its construction within the time hereinafter designated for the construction and completion of its railroad, and also conditioned to pay to the corporation first applying for the consent, if it shall not be the successful bidder, the necessary expenses incurred by such corporation prior to the sale pursuant to the requirements and direction of the local authorities, within twenty days after such sale and upon the certificate of the comptroller or other officer conducting the same as to the sum or amount to be paid. Notice of the time and place and terms of sale, and of the route or routes to be sold, and of the conditions upon which the consent of the local authorities to the construction, operation and extension of such street railroad will be given must be published by such authorities for at least three successive weeks, and in any city having two or more daily newspapers, at least three times a week in two of such papers to be designated by the mayor, and in any city where two daily papers are not published, at least once a week in a newspaper published therein to be designated by the mayor. The comptroller or other chief fiscal officer of the city shall attend and conduct such sale and may twice adjourn the same, but not more than four weeks in all, and shall cancel any bid if the bidder shall not have furnished adequate security entitling such bidder to bid, or shall otherwise fail to comply with the terms and conditions of sale, and shall resell the consent and license in the same manner as hereinbefore provided for the first sale. The bidder who may build and operate such railroad shall at all times keep accurate books of account of the business and earnings of such railroad, which books shall at all times be subject to the inspection of the local authorities. In the event of the failure or refusal of the corporation operating or using such railroad to pay the rental or percentages of gross earnings agreed upon, and after notice of not less than sixty days to pay the same, the local authorities interested therein may apply to any court having jurisdiction upon at least twenty days' notice to such corporation, and after it shall have had an opportunity to be heard in its defense, for judgment declaring the consent and right to oper-

ate and use such railroad forfeited and authorizing the sale again of the same in the manner hereinbefore prescribed, provided, however, that no such resale of any such consent and right heretofore granted shall be authorized except upon the condition that the same shall be subject to all liens and incumbrances existing on said railroads at the time such forfeiture may have been declared. All consents hereafter given by the local authorities, unless it be otherwise provided in such consent or in some renewal thereof may be forfeited at the expiration of two years thereafter, and every such consent heretofore given to a corporation incorporated under chapter one hundred and forty of the laws of eighteen hundred and fifty, or chapter two hundred and fifty-two of the laws of eighteen hundred and eighty-four, for the purpose of constructing and operating a street surface railroad only, wholly south of the Harlem river, shall be deemed to be in full force and effect and shall continue until June thirtieth, eighteen hundred and ninety-five, when it shall cease, unless prior thereto the required consent of property owners, or the order of the general term in lieu thereof, shall have been first obtained; and the provisions of this section shall apply to all applications for such consents made under any statute, either before or after the passage of this chapter, and not finally acted upon at the time of its passage. The board of sinking fund commissioners of any city shall have power to compromise or release any existing liability or obligation to the mayor, aldermen and commonalty of such city under the provisions of chapter six hundred and forty-two of the laws of eighteen hundred and eighty-six, or of this chapter whenever, in the opinion of such board, such release or compromise shall be just or equitable, or for the public interest, the reason for any such release or compromise to be stated in the recorded proceedings of such board. Whenever it shall be desired to unite two street surface railroad routes at some point not over one-half mile from such respective lines or routes, and establish by the construction of such connection a new route for public travel, and the corporation or corporations owning or using such railroads shall consent to operate such connection as a part of a continuous route for one fare, and it shall appear to the local authorities that such connection can not be operated as an independent railroad without inconvenience to the public, but that it is to the public advantage that the same should be operated as a continuous line or route with existing railroads, or whenever for the purpose of connecting with any ferry or railroad depot, it shall be desired to construct an extension or branch not more than one-half mile in length, of any street sur-

face railroad corporation, no sale of such franchise shall be made as provided in this section, but any consent of the local authorities for the construction and operation of such connection, extension or branch shall provide that the corporation or corporations operating such connection, extension or branch shall pay into the treasury of said city annually the percentage provided for extensions or branches in section ninety-five of this chapter, for the purposes, at the times, in the manner and upon the conditions set forth in such section. Nothing herein contained shall be construed as applying to or affecting or modifying the terms of a certain contract bearing date January first, eighteen hundred and ninety-two, entered into by and between the city of Buffalo and the various street surface railroad corporations therein named in such contract. The local authorities may, in their discretion, make their consent to depend upon any further conditions respecting other or further security, or deposit, suitable to secure the construction, completion and operation of the railroad within any time not exceeding the period prescribed in this article and respecting the character, quality or motive power of the road to be completed and respecting the application of any provision herein contained as to carriage of passengers for single fare and the division of gross receipts and the payment of percentages to the line leased or operated under contract by the applicant for an extension, and also respecting any other matter concerning which, in their judgment, further conditions would be for the public interest. Any and all proceedings heretofore taken in substantial compliance with the provisions of this section, as now amended, are hereby approved, ratified and confirmed. (*Thus amended by chap. 434, Laws 1893.*)

PROCEEDINGS IF PROPERTY OWNERS DO NOT CONSENT.

§ 94. If the consent of property owners required by any provision of this article can not be obtained, the corporation failing to obtain such consents may apply to any general term of the supreme court held in the department in which it is proposed to construct its road for the appointment of three commissioners to determine whether such railroad ought to be constructed and operated. Notice of such application must, at least ten days prior thereto, be served, personally upon each non-consenting property owner by delivering the same to the person to whom such property is assessed upon such assessment-roll or by duly mailing the same, properly folded and directed, to such property owner at his post-office address with the postage prepaid thereon. If the person upon whom service is to be made is unknown, or his residence and post-office address are

unknown and can not by reasonable diligence be ascertained, service of such notice may be made by publishing the same in such newspaper of the county as the court may direct, at least once a week for two successive weeks. Upon due proof of service of such notice the court to which the application is made shall appoint three disinterested persons, who shall act as commissioners, and who shall, within ten days after their appointment, cause public notice to be given of their first meeting in the manner directed by the court, and may adjourn from time to time, until all their business is completed. Vacancies may be filled by the court after such notice to parties interested as it may deem proper to be given; and the evidence taken before as well as after the happening of the vacancy shall be deemed to be properly before such commissioners. After a public hearing of all parties interested, the commissioners shall determine whether such railroad ought to be constructed and operated, and shall make a report thereon, together with the evidence taken, to the general term, within sixty days after appointment, unless the court, or a judge thereof, for good cause shown, shall extend such time; and their determination that such road ought to be constructed and operated, confirmed by such court, shall be taken in lieu of the consent of the property owners hereinbefore required. The commissioners shall each receive ten dollars for each day spent in the performance of their duties and their necessary expenses and disbursements, which shall be paid by the corporation applying for their appointment. (*Thus amended by chap. 676, Laws 1892.*)

PERCENTAGE OF GROSS RECEIPTS TO BE PAID IN CITIES OR VILLAGES; REPORT OF OFFICERS.

§ 95. Every corporation building or operating a railroad, or a branch or extension thereof, under the provisions of this article, or of chapter 252 of the laws of 1884, within any city of this state having a population of 1,200,000 or more, shall, for and during the first five years after the commencement of the operation of any portion of its railroad annually, on November first, pay into the treasury of the city in which its road is located, to the credit of the sinking fund thereof, three per cent. of its gross receipts for and during the year ending September thirtieth next preceding; and after the expiration of such five years, make a like annual payment into the treasury of the city to the credit of the same fund, of five per cent. of its gross receipts. If a street surface railroad corporation existing and operating any such railroad in any such city on May 6, 1884, shall have thereafter extended its tracks or constructed branches therefrom,

and shall operate such branches or extensions under the provisions of chapter 252 of the laws of 1884, or of this article, such corporation shall pay such percentages only upon such portion of its gross receipts as shall bear the same proportion to its whole gross receipts as the length of such extension or branches shall bear to the entire length of its line. In any other incorporated city or village the local authorities shall have the right to require, as a condition to their consent to the construction, operation or extension of a railroad under the provisions of this article, the payment annually of such percentage of gross receipts, not exceeding three per cent. in the treasury of the city or village as they may deem proper. In case of extension the amount to be paid shall be ascertained in the manner heretofore provided. The corporation failing to pay such percentage of its gross earnings, shall after November first, pay in addition thereto five per cent. a month on such percentage until paid. The president and treasurer of any corporation required by the provisions of this article to make a payment annually upon its gross receipts shall, on or before November first in each year, make a verified report to the comptroller or chief fiscal officer of the city of the gross amount of its receipts for the year ending September thirtieth, next preceding, and the books of such corporation shall be open to inspection and examination by such comptroller or officer or his duly appointed agent, for the purpose of ascertaining the correctness of its report as to its gross receipts. The corporate rights, privileges and franchises acquired under this article or such chapter by any corporation, which shall fail to comply with all the provisions of this section, shall be forfeited to the people of the state, and upon judgment of forfeiture rendered in an action brought in the name of the people by the attorney-general, shall cease and determine. (*Thus amended by chap. 676, Laws 1892.*)

EXTENSION OF ROUTE OVER RIVERS; TERMINUS IN OTHER COUNTIES; WHEN PROPERTY OWNERS WITHHOLD CONSENT SUPREME COURT MAY APPOINT COMMISSIONERS.

§ 96. Any street railroad except in the counties of New York or Kings, now in operation in this state, which shall, by a two-thirds vote of its directors, decide to extend the route of its road, so as to cross the Hudson river over and by any bridge now or hereafter constructed under the provisions of any law of this state, may so extend their route over and across such bridge upon such terms as may be mutually agreed upon between it and such bridge company, and may locate the terminus of their road in the county adjoining

the one in which their road is now located and in operation. Upon first obtaining the consent of such bridge company or its lessees, and the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having control of that portion of a street or highway upon which it is proposed to construct or operate such railroad, or in case the consent of such property owners can not be obtained the general term of the supreme court in the district in which it is proposed to be constructed may, upon application, appoint three commissioners who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners.

USE OF TRACKS OF OTHER ROADS.

§ 97. Any railroad corporation in this state, whose cars are run and operated by horses or other motive power, authorized by this article, upon the surface of the street, excepting in the city and county of New York, may, for the purpose of enabling it to connect with and run and operate its cars between its tracks and a depot or car-house owned by it, run upon, intersect, and use, for not exceeding five hundred feet, the tracks of any other railroad corporation, the cars of which are run and operated in like manner with the necessary connections and switches for the proper working and accommodation of the cars upon such tracks, and in connection with such depot or car-house, upon paying therefor such compensation as it may agree upon with the corporation owning the tracks to be so run upon, intersected, and used; and in case such corporations can not agree upon the amount of such compensation, the same shall be ascertained and determined in the manner prescribed in the condemnation law.

REPAIR OF STREETS; RATE OF SPEED; REMOVAL OF ICE AND SNOW.

§ 98. Every street surface railroad corporation so long as it shall continue to use any of its tracks in any street, avenue or public place in any city or village, shall have and keep in permanent repair that portion of such street, avenue or public place between its tracks, the rails of its tracks, and two feet in width outside of its tracks, under the supervision of the proper local authorities, and whenever required by them to do so, and in such manner as they may prescribe. In case of the neglect of any corporation to make

pavements or repairs after the expiration of thirty days' notice to do so, the local authorities may make the same at the expense of such corporation, and such authorities may make such reasonable regulations and ordinances as to the rate of speed, mode of use of tracks, and removal of ice and snow, as the interests or convenience of the public may require. A corporation whose agents or servants willfully or negligently violate such an ordinance or regulation, shall be liable to such city or village for a penalty not exceeding five hundred dollars to be specified in such ordinance or regulation. (*Thus amended by chap. 676, Laws 1892.*)

WITHIN WHAT TIME ROAD TO BE BUILT.

§ 99. In case any such corporation shall not commence the construction of its road, or of any extension or branch thereof, within one year after the consent of the local authorities and property owners or the determination of the general term as herein required, shall have been given or renewed, and shall not complete the same within three years after such consents, its rights, privileges and franchises in respect of such railroad extension or branch as the case may be, may be forfeited. If the performance of any such act, within such time, is prevented by legal proceedings in any court, such court may also extend such time for such period as the court shall deem proper. The time for compliance with this requirement in this or any former act, by a street surface railroad corporation incorporated for the purpose of constructing a street surface railroad only, wholly south of the Harlem river and in cities of over twelve hundred thousand inhabitants and which has heretofore obtained such consents, is hereby extended until June thirtieth, eighteen hundred and ninety-five. (*Thus amended by chap. 434, Laws 1893.*)

MOTIVE POWER.

§ 100. Any street surface railroad may operate any portion of its road by animal or horse power, or by cable, electricity, or any power other than locomotive steam power, which may be approved by the state board of railroad commissioners, and consented to by the owners of one-half of the property bounded on that portion of the railroad with respect to which a change of motive power is proposed; and if the consent of such property owners can not be obtained, the determination of three disinterested commissioners, appointed by the general term of the supreme court of the department in which such railroad is located, in favor of such motive power, confirmed by the

court shall be taken in lieu of the consent of the property owners. The consent of the property owners shall be obtained and the proceedings for the appointment and the determination of the commissioners and the confirmation of their report shall be conducted in the manner prescribed in sections 91 and 94 of this article so far as the same can properly be made applicable thereto.

Any railroad corporation making a change in its motive power under this section, may make any changes in the construction of its road or roadbed or other property rendered necessary by the change in its motive power. (*Thus amended by chap. 676, Laws 1892.*)

RATE OF FARE

§ 101. No corporation constructing and operating a railroad under the provisions of this article, or of chapter 252 of the laws of 1884, shall charge any passenger more than five cents for one continuous ride from any point on its road, or on any road, line or branch operated by it, or under its control, to any other point thereof, or any connecting branch thereof, within the limits of any incorporated city or village. Not more than one fare shall be charged within the limits of any such city or village, for passage over the main line of road and any branch or extension thereof, if the right to construct such branch or extension shall have been acquired under the provisions of such chapter or of this article. This section shall not apply to any part of any road constructed prior to May 6, 1884, and then in operation, unless the corporation owning the same shall have acquired the right to extend such road, or to construct branches thereof under such chapter, or shall acquire such right under the provisions of this article, in which event its rate of fare shall not exceed its authorized rate prior to such extension. The legislature expressly reserves the right to regulate and reduce the rate of fare on any railroad constructed and operated wholly or in part under such chapter or under the provisions of this article. (*Thus amended by chap. 676, Laws 1892.*)

CONSTRUCTION OF ROAD IN STREET WHERE OTHER ROAD IS BUILT.

§ 102. No street surface railroad corporation shall construct, extend or operate its road or tracks in that portion of any street, avenue, road or highway, in which a street surface railroad is or shall be lawfully constructed, except for necessary crossings or, in cities, villages and towns of less than one million two hundred and fifty thousand inhabitants over any bridges, without first obtaining the consent

of the corporation owning and maintaining the same, except that any street surface railroad company may use the tracks of another street surface railroad company for a distance not exceeding one thousand feet, and if in a city having a population of less than thirty-five thousand inhabitants, except Long Island City, for a distance not exceeding fifteen hundred feet, and in cities, villages and towns of less than one million two hundred and fifty thousand inhabitants, shall have the right to lay its tracks upon, and run over and use any bridges used wholly or in part as a foot-bridge, whenever the court upon an application for commissioners shall be satisfied that such use is actually necessary to connect main portions of a line to be constructed or operated as an independent railroad, or to connect said railroad with a ferry, or with another existing railroad, and that the public convenience requires the same, in which event the right to use shall only be given for a compensation to an extent and in a manner to be ascertained and determined by commissioners to be appointed by the courts as is provided in the condemnation law, or by the board of railroad commissioners in cases where the corporations interested shall unite in a request for such board to act. Such commissioners in determining the compensation to be paid for the use by one corporation of the tracks of another shall consider and allow for the use of the tracks for all injury and damage to the corporation whose tracks may be so used. Any street surface railroad corporation may, in pursuance of a unanimous vote of the stockholders voting at a special meeting called for that purpose by notice in writing, signed by a majority of the directors of such corporation, stating the time, place and object of the meeting, and serving upon each stockholder appearing as such upon the books of the corporation, personally or by mail, at his last known post-office address, at least sixty days prior to such meeting, guarantee the bonds of any other street surface railroad corporation whose road is fully or partly in the same city or town or adjacent cities or towns. (*Thus amended by chap. 693, Laws 1894.*)

ABANDONMENT OF PART OF ROUTE

§ 103. Any street surface railroad corporation which is the lessee or lessor, or both, or which has the right to use the route or portion of the route of another such corporation pursuant to a lease or agreement lawfully entered into with it, may declare any portion of its own route which it may deem no longer necessary for the successful operation of its road and convenience of the public in consequence of such lease or contract, to be relinquished or abandoned. Such

declaration of abandonment must be adopted by the board of directors of the corporation under its seal, which shall be submitted to the stockholders thereof at a meeting called and conducted in the same manner as required by law for meetings of stockholders for the approval of leases by railroad corporations for the use of their respective roads. If the stockholders shall, at such meeting, ratify and adopt such declaration of abandonment, the secretary of the company shall so certify under the seal of the corporation, upon such declaration. Such declaration shall then be submitted to the board of railroad commissioners for its approval, and if approved by such board, such approval shall be indorsed thereon or annexed thereto, and the declaration so certified and indorsed shall be filed and recorded in the office of the secretary of state, and from the time of such filing, such portion of the route designated in the declaration shall be deemed to be abandoned. (*Thus amended by chap. 676, Laws 1892.*)

**CONTRACTING CORPORATIONS TO CARRY FOR ONE FARE;
PENALTY.**

§ 104. Every such corporation entering into such contract shall carry or permit any other party thereto to carry between any two points on the railroads or portions thereof embraced in such contract any passenger desiring to make one continuous trip between such points for one single fare, not higher than the fare lawfully chargeable by either of such corporations for an adult passenger. Every such corporation shall upon demand, and without extra charge, give to each passenger paying one single fare a transfer, entitling such passenger to one continuous trip to any point or portion of any railroad embraced in such contract, to the end that the public convenience may be promoted by the operation of the railroads embraced in such contract substantially as a single railroad with a single rate of fare. For every refusal to comply with the requirements of this section the corporation so refusing shall forfeit fifty dollars to the aggrieved party. The provisions of this section shall only apply to railroads wholly within the limits of any one incorporated city or village. (*Thus amended by chap. 676, Laws 1892.*)

EFFECT OF DISSOLUTION OF CHARTER AS TO CONSENTS.

§ 105. Whenever any street surface railroad corporation shall have been dissolved or annulled, or its charter repealed by an act of the legislature, the consent of owners of property bounded on, and the consent of the local authorities having the control of that portion of a street or highway upon which the railroad of such corporation

shall have been theretofore constructed and operated, and the order of the general term confirming the report of any commissioner that such railroad ought to be constructed or operated, shall not, nor shall either thereof, be deemed to be in any way impaired, revoked, terminated or otherwise affected by such act of dissolution, annulment or repeal, but the same and each thereof shall continue in full force, efficacy and being. The right to the further enjoyment and to the use thereof, subsequent to such act of dissolution, annulment or repeal, and of all the powers, privileges and benefits therein or thereby created, shall be sold at public auction by the local authorities within whose jurisdiction such railroad shall be, in the same manner as is provided in section 93 of this article. When such sale shall have been so made, the purchaser thereat shall have the right to the further enjoyment and use of such consents and orders, and of each thereof, and of all the powers, privileges and benefits therein or thereby created, in like manner as if such purchaser had been originally named in such consents, reports and orders; if such purchaser shall be otherwise authorized by law to construct, maintain and operate a street surface railroad within the municipality within which such railroad shall be. (*Thus amended by chap. 676, Laws 1892.*)

CORPORATE RIGHTS SAVED IN CASE OF FAILURE TO COMPLETE ROAD; RIGHT TO OPERATE BRANCHES; CONDITIONS; FORMER CONSENTS RATIFIED; LIMITATIONS.

§ 106. The corporate existence of and powers of every street surface railroad corporation, which has completed a railroad upon the greater portion of the route designated in its certificate of incorporation, within ten years from the date of filing such certificate in the office of the secretary of state, and which has operated such completed portion of its railroad continuously for a period of five years last past, and is now operating the same, shall continue with like force and effect, as though it had in all respects complied with the provisions of law with reference to the time when it should have fully completed its road. Every such corporation shall have the right to operate any extensions* and branches of its railroad, now constructed and operated by it, which have been so constructed and operated by it, for a period of ten years last past, with like force and effect, as though the route of such extensions* and branches were designated in its certificate of incorporation. But every such street railroad corporation is authorized to operate such railroad and any extension* or branches thereof, upon condi-

* So in the original.

declaration of abandonment must be adopted by the board of directors of the corporation under its seal, which shall be submitted to the stockholders thereof at a meeting called and conducted in the same manner as required by law for meetings of stockholders for the approval of leases by railroad corporations for the use of their respective roads. If the stockholders shall, at such meeting, ratify and adopt such declaration of abandonment, the secretary of the company shall so certify under the seal of the corporation, upon such declaration. Such declaration shall then be submitted to the board of railroad commissioners for its approval, and if approved by such board, such approval shall be indorsed thereon or annexed thereto, and the declaration so certified and indorsed shall be filed and recorded in the office of the secretary of state, and from the time of such filing, such portion of the route designated in the declaration shall be deemed to be abandoned. (*Thus amended by chap. 676, Laws 1892.*)

**CONTRACTING CORPORATIONS TO CARRY FOR ONE FARE;
PENALTY.**

§ 104. Every such corporation entering into such contract shall carry or permit any other party thereto to carry between any two points on the railroads or portions thereof embraced in such contract any passenger desiring to make one continuous trip between such points for one single fare, not higher than the fare lawfully chargeable by either of such corporations for an adult passenger. Every such corporation shall upon demand, and without extra charge, give to each passenger paying one single fare a transfer, entitling such passenger to one continuous trip to any point or portion of any railroad embraced in such contract, to the end that the public convenience may be promoted by the operation of the railroads embraced in such contract substantially as a single railroad with a single rate of fare. For every refusal to comply with the requirements of this section the corporation so refusing shall forfeit fifty dollars to the aggrieved party. The provisions of this section shall only apply to railroads wholly within the limits of any one incorporated city or village. (*Thus amended by chap. 676, Laws 1892.*)

EFFECT OF DISSOLUTION OF CHARTER AS TO CONSENTS.

§ 105. Whenever any street surface railroad corporation shall have been dissolved or annulled, or its charter repealed by an act of the legislature, the consent of owners of property bounded on, and the consent of the local authorities having the control of that portion of a street or highway upon which the railroad of such corporation

shall have been theretofore constructed and operated, and the order of the general term confirming the report of any commissioner that such railroad ought to be constructed or operated, shall not, nor shall either thereof, be deemed to be in any way impaired, revoked, terminated or otherwise affected by such act of dissolution, annulment or repeal, but the same and each thereof shall continue in full force, efficacy and being. The right to the further enjoyment and to the use thereof, subsequent to such act of dissolution, annulment or repeal, and of all the powers, privileges and benefits therein or thereby created, shall be sold at public auction by the local authorities within whose jurisdiction such railroad shall be, in the same manner as is provided in section 93 of this article. When such sale shall have been so made, the purchaser thereat shall have the right to the further enjoyment and use of such consents and orders, and of each thereof, and of all the powers, privileges and benefits therein or thereby created, in like manner as if such purchaser had been originally named in such consents, reports and orders; if such purchaser shall be otherwise authorized by law to construct, maintain and operate a street surface railroad within the municipality within which such railroad shall be. (*Thus amended by chap. 676, Laws 1892.*)

CORPORATE RIGHTS SAVED IN CASE OF FAILURE TO COMPLETE ROAD; RIGHT TO OPERATE BRANCHES; CONDITIONS; FORMER CONSENTS RATIFIED; LIMITATIONS.

§ 106. The corporate existence of and powers of every street surface railroad corporation, which has completed a railroad upon the greater portion of the route designated in its certificate of incorporation, within ten years from the date of filing such certificate in the office of the secretary of state, and which has operated such completed portion of its railroad continuously for a period of five years last past, and is now operating the same, shall continue with like force and effect, as though it had in all respects complied with the provisions of law with reference to the time when it should have fully completed its road. Every such corporation shall have the right to operate any extensions* and branches of its railroad, now constructed and operated by it, which have been so constructed and operated by it, for a period of ten years last past, with like force and effect, as though the route of such extensions* and branches were designated in its certificate of incorporation. But every such street railroad corporation is authorized to operate such railroad and any extension* or branches thereof, upon condi-

* So in the original.

tion that it has heretofore, or shall hereafter, obtain the consent of the local authorities having the control of that portion of the streets, avenues or highways included in such railroad, or any extension or branches thereof, to the construction and operation of the same, and also upon the condition that it has heretofore or shall hereafter first obtain the consent of the owners of one-half in value of the property bounded on the portion of the streets, avenues or highways included in the route of such railroad, or any extension* or branches thereof, to the construction and operation of the same or in case the consent of such property owners can not be obtained, the general term of the supreme court of the department in which such railroad or any extension or branch thereof is located, may, upon application, appoint three commissioners who shall determine, after a hearing of all the parties interested, whether such railroad ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners. All consents heretofore given, or grants made by local authorities having the control of the portion of any street, avenue or highway included in the route of such railroad, or any extensions or branches thereof, to any such street surface railroad corporation, are hereby ratified and confirmed and declared valid. This section shall be applicable to any such corporation in any town, city or village having less than twenty thousand inhabitants which has completed any portion of its road upon the route designated in its certificate of incorporation within the time required by law for the completion of its road. This section shall not apply to or affect any railroad corporation in the city of New York; nor any special grant made to or authority conferred upon any street surface railroad corporation by any law of this state; nor any pending litigation; nor shall it impair existing rights, privileges or franchises of any street surface railroad corporation. (*Thus amended by chap. 676, Laws 1892.*)

WHEN SAND MAY BE USED ON TRACKS.

† § 107. The owner or operator of any street surface railroad in cities of this state having a population of five hundred thousand or more, may place upon the space between the rails of such road sand in sufficient quantities and no more to prevent the horses traveling thereon from slipping. (*Thus amended by chap. 676, Laws 1892.*)

* So in the original.

† See, also, chap. 460. Laws 1892.

ROAD NOT TO BE CONSTRUCTED UPON GROUND OCCUPIED BY PUBLIC BUILDINGS OR IN PUBLIC PARKS.

* § 108. No street surface railroad shall be constructed or extended upon ground occupied by buildings belonging to any town, city, county or to the state, or to the United States, or in public parks, except in tunnels to be approved by the local authorities having control of such parks. (*Thus amended by chap. 676, Laws 1892.*)

CENTER-BEARING RAILS PROHIBITED.

§ 109. No street surface railroad corporation shall hereafter lay down in the streets of any incorporated city or village of this state what are known as "center-bearing" rails; but in all cases, whether in laying new track or in replacing old rails, shall lay down "grooved" or some other kind of rail not "center-bearing" approved by the local authorities. Such grooved or other rail shall be of such shape and so laid as to permit the paving stones to come in close contact with the projection which serves to guide the flange to the car wheel.

Where in any city, the duty of repairing and repaving streets, as distinguished from the authorization of such paving, repairing and repaving, is by law vested in any local authority other than the common council of such city, such other local authority shall be the local authority referred to in this section. (*Thus amended by chap. 676, Laws 1892.*)

RIGHT TO CROSS BRIDGE SUBSTITUTED FOR BRIDGE CROSSED FOR FIVE YEARS.

§ 110. Should any street surface railroad company have crossed any bridge as a part of its route for a period of more than five years and should any other bridge be substituted therefor at any time, such company shall have the right to cross such substituted bridge and to lay and use railway tracks thereon for the transit of its cars and to make all changes and extensions of its route subject to all the provisions of this act, as the convenient operation of its cars and the public convenience may require. (*This section was added by chap. 676, Laws 1892.*)

* See, also chap. 460, Laws 1892.

ARTICLE V.

OTHER RAILROADS IN CITIES AND COUNTIES.

- SECTION 120.** Application for railway; commissioners.
 121. Oath and bond of commissioners.
 122. First meeting of commissioners.
 123. Determination of necessity of railroad and route.
 124. Adoption of plans and terms upon which road shall be built.
 125. Appraisal of damages and deposit of money as security.
 126. Shall prepare certificate of incorporation; proviso as to forfeiture.
 127. Organization.
 128. Commissioners to deliver certificate; affidavit of directors.
 129. Powers.
 130. Crossing of horse railroad track.
 131. Where route coincides with another route.
 132. Commissioners; to transfer plans, etc.
 133. Commissioners to file report; confirmation thereof.
 134. Pay of commissioners.
 135. Quorum; term of office; removal; vacancies in board of commissioners.
 136. Abandonment or change of route; new commissioners; their power and proceedings.
 137. Increased deposits; when and how required.
 138. Trains to come to full stop, etc.
 139. Gates.
 140. Penalty for violation of this article.
 141. Sections to be printed and posted.
 142. Extension of time.

APPLICATION FOR RAILWAY; COMMISSIONERS.

§ 120. Upon the application of at least fifty reputable householders and taxpayers of any county or city, verified upon oath before a justice of the supreme court, that there is need in said county or city of a steam railway in the streets, avenues and public places thereof for the transportation of passengers, mails or freight, the board of supervisors of such county may, within thirty days thereafter by resolution, approve of the application, and authorize its presentation to the supreme court, and if the railway is to be built wholly within the limits of a city, upon the application of a like number of householders and taxpayers of the city to the mayor thereof, such mayor may, within thirty days thereafter, indorse upon the application his approval and direction that it may be presented to the supreme court, and if the railway is to be built, partly within the limits of a city and partly without, such application shall be approved, both by the mayor of the city and the board of supervisors of the county, and its presentation to the supreme court authorized by them, and upon the presentation of such application so approved and authorized to a special term of the supreme court, held in the

district where such railway is to be built, or some part thereof, the court may appoint five commissioners, residents of the city if the railway is to be built wholly within the city, and of the county, if it is to be built wholly or partly outside of the limits of a city, to determine the necessity of such railroad, the route thereof, the time within which and the conditions upon which it shall be constructed, the damages to the property owners along the line thereof and all the matters lawfully submitted to them, and discharge the duties imposed upon them by law.

OATH AND BOND OF COMMISSIONERS.

§ 121. Within ten days after his appointment and before entering upon the discharge of any of the duties of his office, each commissioner shall take and subscribe the constitutional oath of office, which shall be filed in the office of the clerk of the county and shall execute a bond to the people of the state in the penal sum of twenty-five thousand dollars, with two or more sureties, to be approved by a justice of the supreme court of the department in which the railway is to be built and conditioned for the faithful performance of the duties of the office, which bond shall be filed in the office of the clerk of the county.

FIRST MEETING OF COMMISSIONERS.

§ 122. Within fifteen days after their appointment, the commissioners shall meet in some convenient place in the county or city and organize themselves as a board with appropriate officers.

DETERMINATION OF NECESSITY OF RAILROAD AND ROUTE.

§ 123. The commissioners shall, within thirty days after such organization, determine upon the necessity of such steam railroad, and if they find it to be necessary, they shall, within sixty days after such organization fix and determine the route therefor, and shall have the exclusive power to locate such route, over, under, through or across the streets, avenues, places or lands in such county or city, and to provide for the connection or junction with any other railway or bridge, if the consent of the owners of one-half in value of the property bounded on and the consent of the local authorities having control of that portion of a street or highway, upon which it is proposed to construct or operate such railway have been first obtained. If the consent of such property owners can not be obtained, the determination of three commissioners appointed by the general term of the supreme court of the department where the railroad is to be

constructed, made after due hearing of all parties interested, and confirmed by the court, that such railway ought to be constructed and operated, may be taken in lieu of the consent of such property owners. No such railway shall be located in or upon such portion of any street, avenue, place or lands in such county as are now occupied by an elevated or underground railway or in which such railway has already been authorized by law to be so located and constructed, or which are contained in public parks, or occupied by buildings belonging to the county or the state or United States, or in or upon the following streets, avenues and public places, viz.: Broadway, Fifth avenue, Fourth avenue above Forty-second street, in the city of New York; Debevoise place, Irving place, Lefferts place, those portions of Grand, Classon and Franklin avenues and Dowling street lying between the southerly line of Lexington avenue and the northerly line of Atlantic avenue, that portion of Classon avenue lying between the northerly line of Lexington avenue and the southerly line of Park avenue, and that portion of Washington avenue lying between Park and Atlantic avenues in the city of Brooklyn; and that portion of the city of Buffalo lying between Michigan and Main streets, but such railway may be located and constructed across such excepted streets, avenues and places at their intersection only with other streets, avenues and places. (*Thus amended by chap. 676, Laws 1892.*)

ADOPTION OF PLANS, AND TERMS UPON WHICH ROAD SHALL BE BUILT.

§ 124. The commissioners by such public notice, and under such conditions, and with such inducements as they may prescribe, shall invite a submission of plans for the construction and operation of such railway, and shall meet at a time and place in such notice named, not more than ninety days after their organization, and decide upon the plans for the construction thereof, with the necessary supports, turnouts, switches, sidings, connections, landing-places, stations, buildings, platforms, stairways, elevators, telegraph and signal devices, or other requisite appliances, upon the route or location determined upon by them. They shall upon notice to the local authorities, and after hearing all parties interested, fix and determine what compensation, if any, in a gross sum, or in a certain percentage of receipts, shall annually be paid to the local authorities by the corporation formed for the purpose of constructing, maintaining and operating such railway for public use in the conveyance of persons and property, for the use and occupation by the corpora-

tion of the streets, avenues and highways in and upon which its railway is to be constructed, and the time when such railway, or a portion thereof, shall be constructed and ready for operation, and the maximum rates to be paid for transportation and conveyance thereon, and the hours during which special cars or trains shall be run at reduced rates of fare; and the amount of the capital stock of such corporation and the number of shares into which it shall be divided, and the percentage thereof to be paid in cash on subscribing for such shares.

The commissioners may select two or more routes, upon one of which such railway may be constructed and operated; and the local authorities may consent to the construction and operation of such railway upon one or more of such routes, or parts thereof; and the commissioners shall have power to change and readopt routes and plans for the construction and operation of such railway, after they have been submitted to the local authorities, in cases where such authorities may recommend such changes, or may not be willing to consent to the construction or operation of the railway, upon the routes, and plans adopted, unless such changes are made therein. (*Thus amended by chap. 676, Laws 1892.*)

APPRAISAL OF DAMAGES AND DEPOSIT OF MONEY AS SECURITY.

§ 125. The commissioners shall, within one hundred and ten days after their organization, ascertain and determine the aggregate pecuniary damages arising from the diminution in the value of the property bounded on that portion of such street or streets, highway or highways, upon which it is proposed to construct and operate such railway to be caused by the construction and operation thereof. For that purpose they shall view the several parcels of real property so bounded, and shall appraise separately the pecuniary damages arising from such diminution in value of each parcel thereof, and for the purposes of such appraisal they shall give notice of the time and place, when and where they will meet to hear the owners or persons interested in such real property, which notice shall be published for at least ten days consecutively in at least two newspapers in the county where such railway is to be constructed, and shall take such material testimony upon the probable diminution in value of any or all such parcels to be so caused as may be offered by or in behalf of any person or party interested therein, and the aggregate sum of the amounts so appraised and determined by them shall be the aggregate pecuniary damage required to be ascertained and determined as above pro-

vided. No corporation which shall hereafter be organized under this article shall enter upon any street, highway or lane therein, until it shall first have deposited with some trust company, to be designated by the mayor of the city within which it is proposed to construct the railway or any part thereof, and by the board of supervisors, when the road does not lie wholly within a city, a sum of money equal to the amount so ascertained and determined by the commissioners to be the aggregate pecuniary damage to such property within the city, or within the county outside of any city, or shall have secured the payment of such amount by depositing with such trust company negotiable securities, equivalent at their par and actual value to such aggregate amount, and approved by the mayor of the city in which such road is wholly or in part located, and by the county treasurer of the county if the road is located wholly or in part outside of the limits of such city. The court may accept in lieu of the deposit of money or securities herein required the bond of the corporation, with two or more securities, to be approved by the court, to the effect that the corporation before constructing or operating its railway in front of any premises, shall pay to the owner of the real property all the damages sustained, or which will be sustained by him, as fixed and determined by such commissioners, and the costs allowed, if any. Such bond shall be in a sum double the amount of such damages, and the sureties shall justify in the aggregate to an amount equal to the amount of such bond. Such corporation shall also, at the same time, deposit with such trust company or with the county treasurer, as the commissioners may direct, the sum of five thousand dollars in cash, for the payment of the expense of apportioning and distributing such fund. Unless such moneys or securities shall be deposited by such corporation within one year after it shall have obtained the consent of the local authorities, and of the property owners, or the confirmation by the general term of the supreme court, of the determination of three commissioners in lieu thereof, and in the case of a corporation heretofore organized within one year after it shall have obtained the confirmation by the general term of the supreme court of the report of three commissioners in lieu of the consent of property owners, or within one year after the commissioners appointed to ascertain and determine the aggregate pecuniary damages as provided in this article, shall have made their report, then such corporation shall be deemed not to have accepted the franchises granted. Where the commissioners shall fix and determine different periods of time within which different sections of such railway shall be con-

structed and ready for operation, they shall ascertain, determine, and report separately the aggregate pecuniary damage to property bounded upon that portion of such street or streets upon which each of such sections is located. Upon the deposit by the corporation as above provided of moneys or securities equivalent to the aggregate pecuniary damage to be sustained by any one of such sections, or of any bond given in lieu thereof, it shall immediately be vested with the right and privilege to construct its railway through such section. (*Thus amended by chap. 676, Laws 1892.*)

SHALL PREPARE CERTIFICATE OF INCORPORATION; PROVISIONS AS TO FORFEITURE.

§ 126. The commissioners shall prepare an appropriate certificate of incorporation for the corporation in the last section mentioned in which shall be set forth and embodied, as component parts thereof, the several conditions, requirements and particulars by such commissioners determined pursuant to the provisions of this article, and which shall also provide for the release and forfeiture to the supervisors of the county, or if the road is to be constructed wholly or partly within a city, to such city, of all rights and franchises acquired by such corporation in case such railway or railways shall not be completed within the time and upon the conditions therein provided; and the commissioners shall thereupon and within one hundred and twenty days after their organization, cause a suitable book of subscription to the capital stock of such corporation, to be opened pursuant to due public notice at a banking office in such county or city. A failure by any corporation heretofore or hereafter organized under this article to complete its railway within the time limited in and by its certificate of incorporation shall only work a forfeiture of the franchises of such corporation with respect to that portion of its route which such corporation shall have failed to complete, and shall not affect the rights and franchises of such corporation to construct and operate such part of its railway which it shall have completed within the term prescribed by its certificate of incorporation, or as to which the time for completion shall not have expired, notwithstanding anything to the contrary in its certificate of incorporation.

ORGANIZATION.

§ 127. Whenever the whole capital stock of such corporation or an amount of such capital stock proportioned to the part of such railway directed by the commissioners to be constructed, shall have been subscribed by not less than fifteen persons, and the fixed per-

centage of such subscriptions shall have been paid, in cash, the commissioners shall, by written or printed notice of ten days, served personally or by mail, call a meeting of such subscribers for organization, and appoint the inspectors of election to serve thereat. At such meeting, or at any subsequent one to which the same may be adjourned, a majority in number and amount of such subscribers may elect persons, of a number to be theretofore determined by the commissioners not less than nine, who shall be directors for one year of the corporation formed for the purposes of constructing and operating such railway.

COMMISSIONERS TO DELIVER CERTIFICATE: AFFIDAVIT OF DIRECTORS.

§ 128. Within ten days after the election of such directors the commissioners shall deliver to them a certificate in duplicate, verified by the oath of three commissioners, before a justice of the supreme court, setting forth the certificate of incorporation and the organization of the corporation for the purposes therein mentioned, and within five days after the reception by them of such certificates, three of the directors so elected shall make affidavit in duplicate that the full amount of stock has been subscribed in good faith to construct, maintain and operate the railway or railways in such certificate of incorporation mentioned, and such directors shall file such affidavits and certificate in the office of the secretary of state, and a duplicate of the same in the office of the clerk of the county wherein such railway shall be located; and thereupon the persons who have so subscribed such certificate of incorporation and all persons who shall become stockholders in such corporation shall be a corporation by the name specified in such certificate, and be subject to the duties, liabilities and restrictions of such corporations.

POWERS.

§ 129. Every such corporation shall have power, in addition to the powers conferred by the general and stock corporation laws and by subdivisions two, five and seven of section eight of this chapter:

1. To take and convey persons and property on their railroad by the power or force of steam or by any motor other than animal power, and to receive compensation therefor.

2. To enter upon and underneath the several streets, avenues and public places and lands designated by the commissioners, and enter into and upon the soil of the same, to construct, maintain, operate and use in accordance with the plan adopted by the commissioners,

a railway upon the route or routes and to the points decided upon and to secure the necessary foundations and erect the columns, piers and other structures which may be required to secure safety and stability in the construction and maintenance of the railways constructed upon such plan and for operating the same; and to make such excavations and openings along the route through which such railways shall be constructed as shall be necessary from time to time. In all cases the surface of the streets around such foundations, piers and columns shall be restored to the condition in which they were before such excavations were made, as near as may be, and any interference with or change in the water mains, or in the sewers or lamp posts, except such changes as may be made with the concurrence of the proper department or authority shall be avoided; and the use of the streets, avenues, places and lands designated by the commissioners and the right of way through the same for the purpose of a railway, as herein authorized, shall be considered and is hereby declared to be a public use, consistent with the uses for which the roads, streets, avenues and public places are publicly held. No such corporation shall have the right to acquire the use or occupancy of public parks or squares in any such city or county, or the use or occupancy of any of the streets or avenues, except such as may have been designated for the route or routes of such railway, and except such temporary privileges as the proper authorities may grant to such corporations to facilitate such construction, and no such railway shall be constructed across the track of any steam railway now in actual operation at the grade thereof, nor shall any piers or supports for any elevated railway be erected upon a railway track now actually in use in any street or avenue; and no such corporation shall construct a street surface railroad to run in whole or in part upon the surface of any street or highway under the provisions of this article.

CROSSING OF HORSE RAILROAD TRACK.

§ 130. Whenever the route selected by the commissioners for the construction of such railway shall intersect, cross or coincide with any horse railway track occupying the surface of the street or avenues, such railway corporation is hereby authorized to remove, for the purpose of constructing its road, the tracks of such horse railway; but the same shall be done in such manner as to interfere as little as possible with their practical operation or working, and upon the construction of such railway, where such removals or changes have been made, the same shall be restored as near as may

be to the condition in which they were previous to the construction of such railroad. All such removals and restorations shall be made at the proper cost and charges of such corporation, but no authority is herein given to any such corporation to use the tracks of any horse railway.

WHERE ROUTE COINCIDES WITH ANOTHER ROUTE

§ 131. Whenever the route or routes determined upon by the commissioners coincide with the route or routes covered by the charter of an existing corporation, formed for the purpose of constructing and operating such a railway, and it has not forfeited its charter or failed to comply with the provisions thereof, requiring the construction of a road or roads within the time therein prescribed, such corporation shall have the like power to construct and operate such railway upon the fulfillment of the like requirements and conditions imposed by the commissioners as a corporation specially formed under this article, and the commissioners may fix and determine the route or routes by which any elevated steam railway now in actual operation may connect with other steam railways or the depots thereof, or with steam ferries, upon making compensation therefor, and in case such corporations can not agree with the owners of such steam railways, depots or ferries upon the amount of such compensation, and such owners may be entitled to compensation therefor, the amount of such compensation shall be ascertained and paid in the manner prescribed in the condemnation law, and upon fulfillment by such elevated railway corporation, so far as it relates to such connection, of the requirements and conditions imposed by this article, it shall possess all the powers conferred by section 129 of this article, and when any connecting route or routes shall be so designated, such elevated railway corporation may construct such connection with all the rights and with like effect as though the same had been part of the original route of such railway. (*Thus amended by chap. 676, Laws 1892.*)

COMMISSIONERS TO TRANSFER PLANS, ETC.

§ 132. Within one month after such corporation shall have been formed and organized in the manner hereinbefore provided, the commissioners shall transfer and deliver to the corporation all plans, specifications, drawings, maps, books and papers in their possession, and they shall, within the like period of one month after the organization of such corporation, cause to be paid to the treasurer thereof all money collected under the provisions of this article, after deduct-

ing therefrom the necessary expenses incurred by the commissioners and the amounts due to them for their salaries.

COMMISSIONERS TO FILE REPORT; CONFIRMATION THEREOF.

§ 133. The commissioners shall within one hundred and forty days after their appointment, make a report to a special term of the supreme court of the department in which such railway may be located, of the amount of the pecuniary damage arising from the diminution of value of each parcel of property bounded on that portion of the street or streets, highway or highways, upon which it is proposed to construct such railway or railways, which will be caused by the construction, maintenance and operation thereof. The name and place of residence of the owner or owners of each parcel shall be stated if the same are known, or can be ascertained, and if not known the name of the person or persons appearing by the certificate of the clerk or register of the county, to have the title thereto from the records in his office, and a specific description of each parcel of property with reasonable certainty. The testimony, if any, taken by the commissioners as to the amount of such damage shall accompany their report. Within thirty days after filing and recording its certificate of incorporation, the corporation authorized to construct and operate such railway or railways shall move to confirm such report by giving notice of such motion to the property owners in the manner in which notice of the time and place of hearing before the commissioners is required by section 125 to be given, and if the corporation fails to so move, any property owner may make the motion; and thereafter the proceedings shall be conducted in the manner prescribed in the condemnation law. Before constructing and operating its railway in front of any real property bounded upon any street, avenue or public place wherein the corporation is authorized by the certificate and report of the commissioners to construct and operate its road, such corporation shall pay to the owner of the real property the damages sustained or which will be sustained by him in consequence thereof, as finally fixed and ascertained, and the costs allowed him, if any, and the court may direct that such damages be paid out of the moneys deposited pursuant to the provisions of section 125, or in case negotiable securities shall have been deposited in lieu of money, that so much of such securities shall be sold as may be necessary to raise the amount required to be paid to such owner for damages and costs if any. If a bond shall have been executed in lieu of such deposit, the court may order the sureties in such bond to pay the damages so fixed and

ascertained, and in default thereof, may cause them to be proceeded against and punished as for a contempt of court. (*Thus amended by chap. 676, Laws 1892.*)

PAY OF COMMISSIONERS.

§ 134. Each of the commissioners shall be paid for his services at the rate of ten dollars per day for each day of actual service as such commissioner, and all expenses necessarily incurred by him in the discharge of his duties, to be paid by such corporation, but if a sufficient amount of capital stock shall not be subscribed within one year after the appointment of such commissioners to authorize the formation of such corporation, the commissioners shall receive no salary, and shall cause to be returned to the subscribers for such stock the amounts paid in by them, after deducting therefrom the necessary expenses incurred by the commissioners, but the time, if any, unavoidably consumed by the pendency of legal proceedings shall not be deemed a part of any period of time limited by this article.

QUORUM; TERM OF OFFICE; REMOVAL; VACANCIES IN BOARD OF COMMISSIONERS.

§ 135. A majority of the members of any board of commissioners appointed under this article shall be a quorum for the transaction of any business or the performance of any duty or function, or the exercise of any power, conferred or enjoined upon them. Any commissioner may be removed for cause at any time by the power appointing him, but no commissioner shall be removed without due notice and an opportunity to be heard in defense; and no commissioner thus removed is, or shall be eligible to be again appointed to the office of commissioner. In case of the death, resignation or removal from office of any commissioner the vacancy shall be filled by the power appointing him, within thirty days after such removal, or within thirty days after notice in writing to such appointing power given by some member of the board, or by the corporation hereinafter mentioned, of such death or resignation, and a certificate of every such appointment shall be filed as hereinbefore required. Except as otherwise provided by law, the terms of office of the commissioners shall determine and expire with the performance of their functions as hereinabove prescribed.

ABANDONMENT OR CHANGE OF ROUTE; NEW COMMISSIONERS; THEIR POWERS AND PROCEEDINGS.

§ 136. Any corporation heretofore organized or hereafter to be organized under this article, its successors or assigns, which shall

have constructed or put in operation a railway upon a part and not upon the whole of the route fixed, determined and located for such railway by a board of commissioners, may at any time apply for authority to abandon any portion of the route upon which the railway shall not have been theretofore constructed or shall not then be in operation, with or without a change and relocation of such portion, and with or without extension of the portion not abandoned, or of any part thereof. Such application shall be made by petition in writing, addressed by such corporation to the board of supervisors of the county in which such portion of the route so desired to be changed or abandoned shall be situated, which is not within the limits of any city, or if such route, or any part thereof, shall be within the limits of a city, to the mayor of the city, for the route or portion thereof within such city. Five commissioners may be appointed pursuant to such an application as hereinafter provided, who shall be residents of the county or city and who shall have full power as herein provided. When such application is made by a corporation heretofore organized such commissioners may be appointed within thirty days after presentation of the same by such board of supervisors, or, as the case may be, by such mayor. When such application is made by a corporation hereafter to be organized under this article, such board of supervisors, or, as the case may be, such mayor, may within thirty days after presentation of such application, indorse thereon their or his approval and direction that it may be presented to the supreme court in the manner provided in section 120 of this article, and such court may thereupon appoint such commissioners. Within ten days after his appointment each commissioner so appointed shall take, subscribe and file the oath and give and file the bond prescribed by section 121 of this article; and if any one so appointed shall not comply with this requirement, he shall be deemed to have declined to accept such appointment, and to have made a vacancy which the appointing power shall fill by another appointment as here* provided. Within fifteen days after such appointments shall have been so made, the commissioners shall meet at some convenient place in such county and complete their organization as a board with appropriate officers. Such board shall have all the authority conferred by law upon commissioners appointed or authorized to be appointed under this article. Before proceeding to hear the application of the corporation, the board shall give such public notice as it may deem most proper and effective of the time and place of the hearing. Within thirty days after completing their organization such board shall hear the application

* So in original.

of the corporation, and all parties who may be interested therein, and within sixty days after their organization they shall determine whether any part of such route should be authorized to be abandoned, or should be changed and relocated with or without extension or extensions. If the board shall determine that no abandonment of any part of the route should be allowed, and that no change and relocation of any part thereof should be effected, and that no extension should be made, the board shall dismiss the application. If the board shall determine that an abandonment of any portion of the route should be allowed, or that any change in or extension thereof should be made, the board shall proceed to authorize and require the same upon such conditions as to the board shall seem proper, and with or without extension of the remainder of the route or of any part thereof, by fixing, determining and locating the route or routes of the extension or extensions, if any, and by directing the abandonment of the part of the route theretofore located, but by the board allowed to be abandoned, if any, and by fixing, determining and relocating the part of the route theretofore located, but by the board changed, if any; and the board shall cause to be made in duplicate a survey and map of the route as so changed and fixed, determined and located. Neither such corporation nor any assign or successor thereof shall thereafter have any authority, by reason of anything done under this article to operate or construct any railway upon any portion of the route by the board so required to be abandoned. The board shall also fix and determine the time within which the railway by it authorized and required upon any portion of the route so changed, shall be reconstructed and ready for operation. If the railway on any portion of the route not by the board changed or allowed to be abandoned, shall not have been theretofore constructed and made ready for operation, the board may extend, and fix and determine anew the time within which such railway shall be completed, but such extension of time shall not be for a longer period than that originally allowed by law for the completion thereof. If the board shall have determined that any portion of the route theretofore located should be allowed to be abandoned, with or without a change or relocation thereof or any part thereof, and with or without extension, or if the board shall have extended the time within which such railway shall be completed, the board shall make a report in writing in accordance with the determination so made, describing the portion of the route, if any there be, as so fixed, determined and located anew, and the part, if any there be, of the route allowed to be abandoned, and stating the

period of time, if any, by the board fixed and determined within which such corporation shall construct and complete the railway theretofore authorized or by it authorized to be constructed, and prescribing that a failure by the corporation, its successors or assigns, to complete it within the time, if any so limited, shall work a forfeiture to the supervisors of the county if no part of the road is within a city, or in any city, to such city, of the rights and franchises of such corporation with respect to that portion of the route so fixed, determined and located anew, and with respect to the then authorized extension or extensions, if any there be of said route, upon which a railway shall not be constructed within the time so limited; but the time, if any, unavoidably consumed by the pendency of legal proceedings, shall not be deemed a part of any period of time limited in this article, and any recital of any forfeiture of any of the rights or franchises prescribed by any commissioners heretofore appointed, to be to the mayor, aldermen and commonalty of the city of New York, shall be as effectual for any and all purposes as if such forfeiture had been in terms recited to be to the board of supervisors of the county of New York. Such report shall be signed in duplicate by at least a majority of the then members of the board, and there shall be thereto annexed the survey and map as hereinabove directed, showing the line and location of each and all the routes, with or without the extension or extensions, as fixed, determined and located, and showing also the parts or part, if any there shall be, of the route or routes as theretofore fixed, determined and located, but by the board allowed to be abandoned. Within ten days after so signing such report the board shall cause the same to be filed in the office of the secretary of state, and the duplicate thereof in the office of the clerk of the county wherein such railway shall be located; and thereupon the corporation making such application, its successors or assigns, is and shall be authorized to construct, maintain and operate a steam railway for the transportation of passengers, mail and freight, upon the route or routes so fixed, determined and located, and in said report described, but the construction or operation of a railway upon any new location or selection of route is not and shall not be thus authorized except upon the condition that the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having control of that portion of a street or highway upon which it is proposed to construct or operate such railway be first obtained, or in case the consent of such property owners cannot be obtained, that the determination of three commissioners,

to be upon application appointed by the general term of the supreme court, in the district in which such railroad is proposed to be constructed, be given after a hearing of all parties interested that such railway ought to be constructed or operated, which determination, confirmed by the court, may be taken in lieu of the consent of the property owners. Such corporation is and the successors and assigns thereof shall be authorized to maintain and operate all the railroads and the appurtenances thereof by it or them theretofore constructed upon any portion of a route or routes which shall have been located by commissioners under this article, and to complete within the time in and by such report so extended, fixed and determined anew, and thereafter to maintain and operate the railway and the appurtenances, upon so much of the route or routes theretofore fixed, determined and located as shall not have been so authorized and required to be abandoned, and with the same rights and effect, in all respects, as if such extended period of time had been originally fixed and determined, and in the original certificate of incorporation of such corporation recited, for completing such railway and putting it in operation. The other terms and conditions in and by such certificate mentioned and prescribed, except as the same are hereinbefore modified or may be modified by the board as hereinabove authorized, shall apply to the railway herein authorized to be constructed and operated upon the route or routes as so changed, fixed, determined and located, with the same force and effect as if such route or routes, as finally so changed and located, had been in and by such articles or certificates themselves prescribed. If a new location or extension of route shall be fixed and determined by commissioners who shall have been appointed by the court pursuant to this section, they shall also ascertain and determine the aggregate pecuniary damages arising from the diminution of value of the property bounded on that portion of the street or highway upon the line of such new location or extension and of each parcel of real property so bounded, and their proceedings thereupon shall be conducted in the same manner and upon the like notice as the proceedings for that purpose before the commissioners specified in section 125, and shall make to the supreme court the report required by section 133, and thereupon the same proceedings shall be had as are provided for in such last named section. Each commissioner shall be paid for his services at the rate of ten dollars per day for each day of actual services as such commissioner, and all reasonable expenses incurred by him in or about any of the matters referred to such board, to be paid by the corporation making the application so

heard and determined. No corporation shall be authorized under this section to extend, abandon or change the location of its route, or any part thereof, where the greater portion of the route or routes is or shall be in that portion of the city of New York south or west of Harlem river, or of any route or part thereof in the city of Brooklyn, or county of Kings, or to construct, extend, abandon or change the location of any railway or route for a railway over, under, through or across any street, avenues, place or lands south of One Hundred and Twenty-eighth street or west of Third avenue in that portion of the city of New York south or west of Harlem river, or where a railway might not by law be constructed, or was not by law authorized to be by a board of commissioners located on the fifth day of June, 1888. (*Thus amended by chap. 676, Laws 1892.*)

INCREASED DEPOSIT, WHEN AND HOW REQUIRED.

§ 137. In case any of the securities deposited in lieu of money as provided in section one hundred and twenty-five, shall in the opinion of the county treasurer or trust company with whom they may be deposited, fall below their actual value at the time of deposit, the county treasurer or trust company shall call upon such railway corporation to substitute therefor other securities equivalent at their par or market value to the amount in lieu of which the securities for which they are to be substituted were deposited, and in case such other securities shall not be furnished, the county treasurer or trust company shall call upon such corporation to furnish as a substitute, and it shall so furnish an amount of money equal to the amount in lieu of which the securities first above referred to were deposited.

TRAINS TO COME TO FULL STOP, ETC.

§ 138. All trains upon elevated railroads shall come to a full stop before any passengers shall be permitted to leave such train; and no train on such railroad shall be permitted to start until every passenger desiring to depart therefrom shall have left the train, provided such passenger has manifested his or her intention to so depart by moving toward or upon the platform of any car; nor until every passenger upon the platform or station at which such train has stopped, and desiring to board or enter such cars, shall have actually boarded or entered the same, but no person shall be permitted to enter or board any train after due notice from an authorized employe of such corporation that such train is full and that no more passengers can be then received.

GATES.

§ 139. Every car used for passengers upon elevated railroads shall have gates at the outer edge of its platforms, so constructed that they shall, when opened, be caught and held open by such catch or spring as will prevent their swinging and obstructing passengers in their egress from or ingress to such cars; and every such gate shall be kept closed while the car is in motion; and when the car has stopped and a gate has been opened, the car shall not start until such gate is again firmly closed.

PENALTY FOR VIOLATION OF THIS ARTICLE.

§ 140. Any elevated railroad corporation that shall fail or neglect to comply with or enforce the provisions of this article, shall upon the petition of any citizen to any court of record, and upon due notice to such corporation, and proof of such failure or neglect, pay to the clerk of the court wherein such petition was made, a sum not less than two hundred and fifty nor more than one thousand dollars, as such court may direct by its order. The sum so ordered to be paid shall be paid by such clerk of the court to the county treasurer, and shall be distributed by such treasurer equally among the public hospitals of the county in which the proceeding is had, at such time, as the board of supervisors or board of aldermen in any such county shall direct. Nothing in this section shall relieve elevated railroad corporations from any liability under which they may now be held by existing laws for damages to persons or property. (*Thus amended by chap. 676, Laws 1892.*)

SECTIONS TO BE PRINTED AND POSTED.

§ 141. The officers and board of directors of such railroad corporations shall cause copies of sections one hundred and thirty-eight, one hundred and thirty-nine and one hundred and forty to be printed conspicuously and posted in the depots or stations and in each car belonging to them.

EXTENSION OF TIME.

§ 142. The time within which any act is required to be done under this article may be extended by the supreme court for good cause shown, for one year, and but one extension will be granted. Any company that has heretofore constructed or is now operating an elevated railroad shall be deemed to have been duly incorporated, notwithstanding any failure on the part of commissioners to insert in its articles of association provisions complying with statutory requirements relative to such articles. (*This section was added by chap. 676, Laws 1892.*)

ARTICLE VI.

THE BOARD OF RAILROAD COMMISSIONERS.

SECTION 150. Appointment and term of office of railroad commissioners.

- 151. Suspension from office.
- 152. Secretary and marshal of board.
- 153. Additional officers; their duties.
- 154. Oath of office; eligibility of officers of board.
- 155. Principal officer and meetings of board.
- 156. Quorum of board.
- 157. General powers and duties of board.
- 158. Reports of railroad corporations.
- 159. Investigation of accidents.
- 160. Recommendations of board where law has been violated.
- 161. Recommendations of board when repairs or other changes are necessary.
- 162. Legal effect of recommendation and action of the board.
- 163. Corporation must furnish necessary information.
- 164. Attendance of witnesses and their fees.
- 165. Fees to be charged and collected by the board.
- 166. Annual report of board.
- 167. Certified copies of papers filed to be evidence.
- 168. Acts prohibited.
- 169. Salaries and expenses of members and officers of the board.
- 170. Total annual expense to be borne by railroads.
- 171. Application of this article.
- 172. Railroad Commissioners may award prizes for improvements

APPOINTMENT AND TERM OF OFFICE OF RAILROAD COMMISSIONERS.

§ 150. There shall continue to be a board of railroad commissioners, consisting of three competent persons, one of whom shall be experienced in railroad business, appointed by the governor, by and with the advice and consent of the senate, each of whom shall hold office for the term of five years, and until his successor shall have been appointed and shall have qualified. A commissioner shall in like manner be appointed upon the expiration of the term of any commissioner; and when any vacancy shall occur in the office of any commissioner, a commissioner shall in like manner be appointed for the residue of the term. If the senate shall not be in session when the vacancy occurs, the governor shall appoint a commissioner to fill the vacancy, subject to the approval of the senate when convened.

SUSPENSION FROM OFFICE

§ 151. Any commissioner may be suspended from office by the governor upon written charges preferred. The governor shall report such suspension and the reasons therefor to the senate at the

beginning of the next ensuing session, and if a majority of the senate shall approve the action of the governor, such commissioner shall be removed from office and his office become vacant.

SECRETARY AND MARSHAL OF BOARD.

§ 152. The board shall have a secretary and a marshal who shall be appointed by it and serve during its pleasure. The secretary shall keep a full and faithful record of the proceedings of the board, and be the custodian of its records, and file and preserve at its general office all books, maps, documents and papers intrusted to his care, and be responsible to the board for the same. Under the direction of the board he shall be its chief executive officer, shall have general charge of its office, superintend its clerical business, conduct its correspondence, be the medium of its decisions, recommendations, orders and bequests*, prepare for service such papers and notices as may be required of him by the commissioners, and perform such other duties as the board may prescribe, and he shall have power to administer oaths in all cases pertaining to the duties of his office. He shall have the power to designate from time to time one of the clerks appointed by the board to act as assistant secretary during his absence from the county of Albany, and the clerk so designated for the time designated shall within the county of Albany only, possess the powers conferred by this section upon the secretary of the board. (*Thus amended by chap. 534, Laws 1892.*)

ADDITIONAL OFFICERS; THEIR DUTIES.

§ 153. The board may also appoint, to serve during its pleasure, the following officers or any of them: An accountant, who shall be thoroughly skilled in railroad accounting, and who shall, under the direction of the board, make examinations of the books and accounts of railroad and other corporations, and supervise the quarterly and annual reports made by the railroad corporations to the board, and collect and compile railroad statistics, and perform such other duties as the board may prescribe. An inspector, who shall be a civil engineer, skilled in railroad affairs; also, an inspector, who shall be an expert in electrical railroad affairs, each of whom shall make such inspections of railroads and other matters relating thereto, as directed by the board, and report to it. Such additional clerical force as may be necessary for the transaction of its business. The board may also employ engineers, accountants and other experts whose services they may deem to be of temporary importance in conducting any investigation authorized by law. (*Thus amended by chap. 456, Laws of 1896.*)

* So in original.

OATH OF OFFICE; ELIGIBILITY OF OFFICERS OF BOARD.

§ 154. Each commissioner, and every person appointed to office by the board, shall, before entering upon the duties of his office, take and subscribe the constitutional oath of office. No person shall be appointed to or hold the office of commissioner or be appointed by the board to, or hold any office, place or position under it who holds any official relation to any railroad corporation, or owns stock or bonds therein, or who is in any manner pecuniarily interested in any firm or corporation having business relations with any such corporation.

PRINCIPAL OFFICE AND MEETINGS OF BOARD.

§ 155. The principal office of the board shall be at the city of Albany, in rooms designated by the capitol commissioners, and it may have a branch office at the city of New York, and one at the city of Buffalo; and the board, or a quorum thereof, shall meet at least once a month during the year at the office in Albany. The board shall have an official seal, to be prepared by the secretary of state in accordance with law, and its offices shall be supplied with necessary postage, stationery, office furniture and appliances to be paid for as other expenses authorized by this article, and it shall have prepared for it by the state the necessary books, maps and statistics, incidentally necessary for the discharge of its duties.

QUORUM OF BOARD.

§ 156. Two of the commissioners shall constitute a quorum for the transaction of any business, or the performance of any duty of the board and may hold meetings thereof at any time or place within the state. All examinations or investigations made by the board may be held and taken by and before any one of the commissioners or the secretary of the board, by the order of the board, and the proceedings and decisions of such single commissioner or secretary, shall be deemed to be the proceedings and decisions of the board, when approved and confirmed by it. (*Thus amended by chap. 534, Laws 1892.*)

GENERAL POWERS AND DUTIES OF BOARD.

§ 157. The board shall have power to administer oaths in all matters relating to its duties, so far as necessary to enable it to discharge such duties, shall have general supervision of all railroads and shall examine the same and keep informed as to their condition, and the manner in which they are operated for the security and ac-

commodation of the public and their compliance with the provisions of their charters and of law. The commissioners or either of them in the performance of their official duties may enter and remain during business hours in the cars, offices and depots, and upon the railroads of any railroad corporation within the state, or doing business therein; and may examine the books and affairs of any such corporation and compel the production of books and papers or copies thereof, and the board may cause to be subpoenaed witnesses, and if a person duly subpoenaed fails to obey such subpoena without reasonable cause, or shall without such cause refuse to be examined, or to answer a legal or pertinent question, or to produce a book or paper, which he is directed by subpoena to bring, or to subscribe his deposition after it has been correctly reduced to writing, the board may take such proceedings as are authorized by the Code of Civil Procedure upon the like failure or refusal of a witness subpoenaed to attend the trial of a civil action before a court of record or a referee appointed by such court. The board shall also take testimony upon, and have a hearing for and against any proposed change of the law relating to any railroad or of the general railroad law, if requested to do so by the legislature or by the committee on railroads of the senate or the assembly, or by the governor, and may take such testimony and have such a hearing when requested to do so by any railroad corporation, or incorporated organization representing agricultural or commercial interests in the state, and shall report their conclusions in writing to the legislature, committee, governor, corporation or organization making such request; and shall recommend and draft such bills as will in its judgment protect the people's interest in and upon the railroads of this state.

REPORTS OF RAILROAD CORPORATIONS.

§ 158. The board shall prescribe the form of the report required by the railroad law to be made by railroad corporations, and may from time to time make such changes and additions in such form, giving to the corporation six months notice before the expiration of any fiscal year, of any changes or additions which would require any alteration in the method or form of keeping their accounts, and on or before September fifteenth in each year, shall furnish a blank form for such report. When the report of any corporation is defective, or believed to be erroneous, the board shall notify the corporation to amend the same within thirty days. The originals of the reports, subscribed and sworn to as prescribed by law, shall be preserved in the office of the board.

See section 57, Railroad Law, *ante*. Also sections 416, 602 and 611, *post*.

INVESTIGATION OF ACCIDENTS.

§ 159. The board shall investigate the cause of any accident on any railroad resulting in loss of life or injury to persons, which in their judgment shall require investigation and include the result thereof in their annual report to the legislature. Before making any such examination or investigation, or any investigation or examination under this article, reasonable notice shall be given to the corporation, person or persons conducting and managing such railroad of the time and place of commencing the same. The general superintendent or manager of every railroad shall inform the board of any such accident immediately after its occurrence. If the examination of the books and affairs of the corporation, or if witnesses in its employ, shall be necessary in the course of any examination or investigation into its affairs, the board, or a commissioner thereof, shall sit for such purpose in the city or town of this state where the principal business office of the corporation is situated if requested so to do by the corporation; but the board may require copies of books and papers, or abstracts thereof, to be sent to them to any part of this state.

RECOMMENDATIONS OF BOARD, WHERE LAW HAS BEEN VIOLATED.

§ 160. If, in the judgment of the board, it shall appear that any railroad corporation has violated any constitutional provision or law, or neglects in any respect to comply with the terms of the law by which it was created, or unjustly discriminates in its charges for services, or usurps any authority not granted by law, or refuses to comply with the provisions of any law, or with any recommendation of the board, it shall give notice thereof in writing to the corporation, and if the violation, neglect or refusal is continued after such notice, the board may forthwith present the matter to the attorney-general, who shall take such proceedings thereon as may be necessary for the protection of the public interests.

RECOMMENDATIONS OF BOARD, WHEN REPAIRS OR OTHER CHANGES ARE NECESSARY.

§ 161. If, in the judgment of the board, after a careful personal examination of the same, it shall appear that repairs are necessary upon any railroad in the state, or that any addition to the rolling stock, or any addition to or change of the station or station-houses, or that additional terminal facilities shall be afforded, or that any change of the rates of fare for transporting freight or passengers or in the mode of operating the road or conducting its business, is reasonable

and expedient in order to promote the security, convenience and accommodation of the public, the board shall give notice and information in writing to the corporation of the improvements and changes which they deem to be proper, and shall give such corporation an opportunity for a full hearing thereof, and if the corporation refuses or neglects to make such repairs, improvements and changes, within a reasonable time after such information and hearing, and fails to satisfy the board that no action is required to be taken by it, the board shall fix the time within which the same shall be made, which time it may extend. It shall be the duty of the corporation, person or persons owning or operating the railroad to comply with such decisions and recommendations of the board as are just and reasonable. If it fails to do so the board shall present the facts in the case to the attorney-general for his consideration and action, and shall also report them in its annual or in a special report to the legislature.

LEGAL EFFECT OF RECOMMENDATIONS AND ACTION OF THE BOARD.

§ 162. No examination, request or advice of the board, nor any investigation or report made by it, shall have the effect to impair in any manner or degree the legal rights, duties or obligations of any railroad corporation, or its legal liabilities for the consequence of its acts, or of the neglect or mismanagement of any of its agents or employees. The supreme court at special term shall have power in its discretion, in all cases of decisions and recommendations by the board which are just and reasonable to compel compliance therewith by mandamus, subject to appeal to the general term and the court of appeals, and upon such appeal, the general term and the court of appeals may review and reverse upon the facts as well as the law. (*Thus amended by chap. 676, Laws 1892.*)

CORPORATIONS MUST FURNISH NECESSARY INFORMATION

§ 163. Every railroad corporation shall, on request, furnish the board any necessary information required by them concerning the rates of fare for transporting freight and passengers upon its road and other roads with which its business is connected, and the condition, management, and operation of its road, and shall, on request, furnish to the board copies of all contracts and agreements, leases or other engagements entered into by it with any person or corporation. The commissioners shall not give publicity to such information, contracts, agreements, leases or other engagements, if,

in their judgment, the public interests do not require it, or the welfare and prosperity of railroad corporations of the state might be thereby injuriously affected.

See section 416, Penal Code, *post*.

ATTENDANCE OF WITNESSES AND THEIR FEES.

§ 164. All subpoenas shall be issued by the president of the board, or by any two members thereof, and may be served by any person of full age authorized by the board to serve the same. The fees of witnesses before the board shall be two dollars for each day's attendance, and five cents for every mile of travel by the nearest generally traveled route in going to and returning from the place where the attendance of the witness is required, and the fees shall be audited and paid by the comptroller on the certificate of the secretary of the commission.

FEES TO BE CHARGED AND COLLECTED BY THE BOARD.

§ 165. The board shall charge and collect the following fees: For copies of papers and records not required to be certified, or otherwise authenticated by the board, ten cents for each folio of one hundred words; for certified copies of official documents filed in its office, fifteen cents for each folio, and one dollar for every certificate under seal affixed thereto; for each certified copy of the quarterly report made by a railroad corporation to the board, fifty cents; for each certified copy of the annual report of the board, one dollar and fifty cents; for certified copies of evidence and proceedings before the board, fifteen cents for each folio. No fees shall be charged or collected for copies of papers, records or official documents, furnished to public officers for use in their official capacity, or for the annual reports of the board in the ordinary course of distribution. All fees charged and collected by the board belong to the people of the state, and shall be paid quarterly, accompanied with a detailed statement thereof into the treasury of the state to the credit of the general fund.

ANNUAL REPORT OF BOARD.

§ 166. The board shall make an annual report on or before the second Monday in January in each year, which shall contain:

1. A record of their meetings and an abstract of their proceedings during the preceding year.
2. The result of any examination or investigation conducted by them.
3. Such statements, facts and explanations as will disclose the

actual workings of the system of railroad transportation in its bearing upon the business and prosperity of the state, and such suggestions as to the general railroad policy of the state, of the amendment of its laws, or the condition, affairs or conduct of any railroad corporation, as may seem to them appropriate.

4. Drafts of all bills submitted by them to the legislature and the reasons therefor.

5. Such tables and abstracts of all the reports of all the railroad corporations as they may deem expedient.

6. A statement in detail of the traveling expenses and disbursements of the commissioners, their clerks, marshal and experts.

Five hundred copies of the report with the reports of the railroad corporations of the state, in addition to the regular number prescribed by law, shall be printed as a public document of the state, bound in cloth for the use of the commissioners, and to be distributed by them in their discretion to railroad corporations and other persons interested therein.

CERTIFIED COPIES OF PAPERS FILED TO BE EVIDENCE

§ 167. Copies of all official documents filed or deposited according to law in the office of the board, certified by a member of the board or the secretary thereof to be true copies of the originals under the official seal of the board, shall be evidence in like manner as the originals.

ACTS PROHIBITED.

§ 168. No railroad commissioner shall, directly or indirectly, solicit or request from, or recommend to any railroad corporation, or any officer, attorney or agent thereof, the appointment of any person to any place or position, nor shall any railroad corporation, its attorney or agent, offer any place, appointment or position or other consideration to such commissioners, or either of them, nor to any clerk or employe of the commissioners or of the board; neither shall the commissioners or either of them, nor their secretary, clerks, agents, employes or experts, accept, receive or request any pass from any railroad in this state, for themselves or for any other person, or any present, gift or gratuity of any kind from any railroad corporation; and the request or acceptance by them, or either of them, of any such place or position, pass, presents, gifts or other gratuity shall work a forfeiture of the office of the commissioner or commissioners, secretary, clerk or clerks, agent or agents, employe or employes, expert or experts, requesting or accepting the same.

See section 417, Penal Code, *post*. Also, section 416, Penal Code, *post*.

SALARIES AND EXPENSES OF MEMBERS AND OFFICERS OF THE BOARD.

§ 169. The annual salary of each commissioner shall be eight thousand dollars; of the secretary, six thousand dollars; of the marshal, fifteen hundred dollars; of the accountant and of the inspector such sum as the board may fix, not exceeding three thousand dollars each; of the clerical force such sums respectively as the board may fix. In the discharge of their official duties, the commissioners, their officers, clerks and all experts and agents whose services are deemed temporarily of importance, shall be transported over the railroads in this state free of charge upon passes signed by the secretary of state, and the commissioners shall have reimbursed to them the necessary traveling expenses and disbursements of themselves, their officers, clerks and experts, not exceeding in the aggregate five hundred dollars per month. All salaries and disbursements shall be audited and allowed by the comptroller, and paid monthly by the state treasurer upon the order of the comptroller out of the funds provided therefor. (*Thus amended by chap. 534, Laws 1892.*)

TOTAL ANNUAL EXPENSE TO BE BORNE BY RAILROADS.

§ 170. The total annual expense of the board authorized by law, excepting only rent of offices and the cost of printing and binding the annual reports of the board as provided by law, shall not exceed sixty thousand dollars; and shall be borne by the several corporations owning or operating railroads according to their means, to be apportioned by the comptroller who, on or before July first in each year, shall assess upon each of such corporations its proportion of such expenses, one-half in proportion to its net income for the fiscal year next preceding that in which the assessment is made, and one-half in proportion to the length of its main road and branches, except that each corporation whose line of road lies partly within and partly without the state, shall in respect of its net income be assessed on a part bearing the same proportion to its whole net income that the line of its road within the state bears to the whole length of road, and in respect of its main road and branches shall be assessed only on that part which lies within the state. Such assessment shall be collected in the manner provided by law for the collection of taxes upon corporations. (*Thus amended by chap. 456, Laws 1896.*)

APPLICATION OF THIS ARTICLE

§ 171. The provisions of this article shall apply to all railroads within the state, and the corporations, receivers, trustees, directors

or others, owning or operating the same or any of them, and to all sleeping and drawing room car corporations, and to all other associations, partnerships or corporations engaged in transporting passengers or freight upon any such railroad as lessee or otherwise.

§ 172. The railroad commissioners may in their discretion act as judges to award prizes which may be offered by any responsible person for improvements in machinery or appliances for operating railroads. (*This section added by chap. 452, Laws 1894.*)

Sections 180 to 183, both inclusive, were repealed by chap. 676, Laws 1892.

Sections of the Constitution of the State of New York Relating to Railroads.

ARTICLE I.—SECTION 18. The right of action now existing to recover damages for injuries resulting in death, shall never be abrogated; and the amount recoverable shall not be subject to any statutory limitation.

ARTICLE III.—SECTION 18. The legislature shall not pass a private or local bill in any of the following cases:

* * * * *

Granting to any corporation, association or individual the right to lay down railroad tracks.

Granting to any private corporation, association or individual any exclusive privilege, immunity or franchise whatever.

* * * * *

The legislature shall pass general laws providing for the cases enumerated in this section, and for all other cases which in its judgment may be provided for by general laws. But no law shall authorize the construction or operation of a street railroad except upon the condition that the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having the control of, that portion of a street or highway upon which it is proposed to construct or operate such railroad be first obtained, or in case the consent of such property owners cannot be obtained, the appellate division of the supreme court, in the department in which it is proposed to be constructed, may, upon application, appoint three commissioners who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners.

ARTICLE VII.—SECTION 7. The lands of the state, now owned or hereafter acquired, constituting the forest preserve as now fixed by law, shall be forever kept as wild forest lands. They shall not be leased, sold or exchanged, or be taken by any cor-

poration, public or private, nor shall the timber thereon be sold, removed or destroyed.

ARTICLE VIII.—SECTION 1. Corporations may be formed under general laws; but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the legislature, the objects of the corporation cannot be attained under general laws. All general laws and special acts passed pursuant to this section may be altered from time to time or repealed.

§ 2. Dues from corporations shall be secured by such individual liability of the corporators and other means as may be prescribed by law.

§ 3. The term corporations as used in this article shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships. And all corporations shall have the right to sue and shall be subject to be sued in all courts in like cases as natural persons.

ARTICLE XIII.—SECTION 5. No public officer, or person elected or appointed to a public office, under the laws of this state, shall directly, or indirectly ask, demand, accept, receive or consent to receive for his own use or benefit, or for the use or benefit of another, any free pass, free transportation, franking privilege or discrimination in passenger, telegraph or telephone rates, from any person or corporation, or make use of the same himself or in conjunction with another. A person who violates any provision of this section, shall be deemed guilty of a misdemeanor, and shall forfeit his office at the suit of the attorney-general. Any corporation, or officer or agent thereof, who shall offer or promise to a public officer, or person elected or appointed to a public office, any such free pass, free transportation, franking privilege or discrimination, shall also be deemed guilty of a misdemeanor and liable to punishment except as herein provided. No person, or officer or agent of a corporation giving any such free pass, free transportation, franking privilege or discrimination hereby prohibited, shall be privileged from testifying in relation thereto, and he shall not be liable to civil or criminal prosecution therefor if he shall testify to the giving of the same.

Other General Laws Relating to Railroads.

CHAP. 300, LAWS OF 1835.

AN ACT to enlarge the powers of commissioners of highways.

LAWFUL FOR COMMISSIONERS OF HIGHWAYS, HAVING SUPERVISION THEREOF, TO GIVE WRITTEN CONSENT FOR CONSTRUCTION ACROSS ROAD OR HIGHWAY.

SECTION 1. Whenever any association or individual shall construct a railroad upon land purchased for that purpose, or a route which shall cross any road or other public highway, it shall be lawful for the commissioners of highways, having the supervision thereof, to give a written consent that such railroad may be constructed across, or on such road or other public highway; and thereafter such association or individual shall be authorized to construct and use such railroad across or on such roads or other highways as the commissioners aforesaid shall have permitted; but any public highway thus intersected or crossed by a railroad shall be so restored to its former state as not to have impaired its usefulness.

See section 11, Railroad Law, *ante*.

CHAP. 300, LAWS OF 1837.

AN ACT relative to unclaimed trunks and baggage.

DESCRIPTION OF SAME TO BE ENTERED IN A BOOK.

SECTION 1. The proprietor or proprietors of the several lines of stages, and the proprietors of the several canal boat lines, and the proprietors of the several steamboats, and the several incorporated railroad companies, and the keepers of the several inns and taverns within this state, who shall have any unclaimed trunks, boxes or baggage within his, their, or either of their custody, shall immediately enter the time the same was left, with a proper description thereof, in a book to be by them provided and kept for that purpose. In case the name and residence of the owner shall be ascertained, it shall be the duty of such person who shall have any such property as above specified, to immediately notify the owner thereof by mail.

DESCRIPTION OF PROPERTY TO BE MADE AND PUBLISHED IN STATE PAPER.

§ 2. In case there shall not be any information obtained as to the owner, it shall be the duty of the person having the possession thereof, to make out a correct written description of all such property as shall have been unclaimed for thirty days, stating the time the same came into his possession, and forward said description to the editor of the state paper, whose duty it shall be on the first Mondays of July, October, January and April, in each year, to publish the same in the state paper once a week for three weeks successively.

IF NOT CLAIMED FOR SIXTY DAYS AFTER SAID PUBLICATION, TO BE OPENED AND EXAMINED AND AN INVENTORY MADE; WHEN TO BE SOLD AT PUBLIC AUCTION, UPON WHAT NOTICE; DISPOSITION OF PROCEEDS.

§ 3. In case the said property shall remain unclaimed for sixty days after the said publication, it shall be the duty of the person or company having possession thereof, to apply to a magistrate of the town or city in which said property is retained, in whose presence and under whose direction said property shall be opened and examined, and an inventory thereof taken by said magistrate; and if the name and residence of the owner is ascertained by such examination, it shall be the duty of the magistrate forthwith to direct a notice thereof to such owner, by mail; and if said property shall remain unclaimed for three months after such examination, it shall be the further duty of the person or company having possession thereof to apply to a magistrate as aforesaid, and if said magistrate shall deem such property of sufficient value, he shall cause the same to be sold at public auction, giving six days' previous notice of the time and place of such sale; and from the proceeds of such sale he shall pay the charges and expenses legally incurred in respect to said property, or a ratable proportion thereof to each claimant, if insufficient for the payment of the whole amount; and the balance of the proceeds of such sale, if any, the said magistrate shall immediately pay to the overseers of the poor of said town or city, for the use of the poor thereof, and the said overseers shall make an entry of such amount, and the time of receiving the same, upon their official records, and it shall be subject, at any time within seven years thereafter, to be reclaimed by, and refunded to, the owner of such property, his heirs or assigns, on satisfactory proof of such ownership.

EXPENSE; TO BE A LIEN ON PROPERTY.

§ 4. The person making the entry of unclaimed property as above specified, shall be entitled to twelve and a half cents for each trunk, box,

bale, package or bundle so entered, and shall have a lien on the property so entered until payment shall be made ; and in case any additional expense shall be incurred for printing, the lien shall continue until payment shall be made for such additional expense.

PENALTY.

§ 5. In case any person shall neglect or refuse to comply with the provisions of this act, he shall forfeit the sum of five dollars for each and every trunk, box or bundle of baggage so neglected as above specified, to the benefit of any person who shall sue for the same in his own name, in an action of debt in any court having cognizance thereof.

See section 46, Railroad Law, *ante*.

CHAP. 133, LAWS OF 1847.

AN ACT authorizing the incorporation of rural cemetery associations.

* * * * *

NO STREET, ROAD, AVENUE OR THOROUGHFARE TO BE LAID OUT THROUGH A CEMETERY.

§ 10. The cemetery lands and property of any association formed pursuant to this act, and any property held in trust by it for any of the purposes mentioned in section nine of this act, shall be exempt from all public taxes, rates and assessment, and shall not be liable to be sold on execution, or be applied in payment of debts from any individual proprietor. But the proprietors of lots or plots in such cemeteries, their heirs or devisees, may hold the same exempt therefrom, so long as the same shall remain dedicated to the purposes of a cemetery, and during that time no street, road, avenue or thoroughfare shall be laid out through such cemetery, or any part of the lands held by such association for the purposes aforesaid, without the consent of the trustees of such association, except by special permission of the Legislature of the State.

(Thus amended by chapter 31, Laws of 1877. All the rest of the Act repealed by the Membership Corporation Law.)

CHAP. 62, LAWS OF 1853.

AN ACT to regulate the construction of roads and streets across railroad tracks.

LAYING OUT STREETS OR HIGHWAYS ACROSS RAILROAD TRACKS.

SECTION 1. It shall be lawful for the authorities of any city, village or town in this state, who are by law empowered to lay out streets and highways, to lay out any street or highway across the track of any railroad now laid or which may hereafter be laid, without compensation to

the corporation owning such railroad; but no such street or highway shall be actually opened for use until thirty days after notice of such laying out has been served personally upon the president, vice-president, treasurer or a director of such corporation.

**RAILROAD CORPORATIONS TO CAUSE STREET LAID OUT
ACROSS THEIR TRACK TO BE TAKEN AT MOST CONVEN-
IENT PLACE FOR PUBLIC TRAVEL.**

§ 2. It shall be the duty of any railroad corporation, across whose track a street or highway shall be laid out as aforesaid, immediately after the service of said notice, to cause the said street or highway to be taken across their track, as shall be most convenient and useful for public travel, and to cause all necessary embankments, excavation and other work to be done on their road for that purpose; and all the provisions of the act, passed April second, eighteen hundred and fifty, in relation to crossing streets and highways, already laid out, by railroads, and in relation to cattle-guards and other securities and facilities for crossing such roads, shall apply to streets and highways hereafter laid out.

PENALTY FOR NEGLECT OR REFUSAL.

§ 3. If any railroad corporation shall neglect or refuse, for thirty days after the service of the notice aforesaid, to cause the necessary work to be done and completed, and improvements made on such streets or highways across their road, they shall forfeit and pay the sum of twenty dollars for every subsequent day's neglect or refusal, to be recovered by the officers laying out such street or highway, to be expended on the same; but the time for doing said work may be extended, not to exceed thirty days, by the county judge of the county in which such street or highway, or any part thereof, may be situated, if, in his opinion, the said work cannot be performed within the time limited by this act.

CHAP. 228, LAWS OF 1857.

AN ACT in relation to the payment of fare upon the New York Central Railroad.

SECTION 1. The New York Central Railroad Company, at every station on its road where a ticket office is now or may hereafter be established, shall keep the same open for the sale of tickets at least one hour prior to the departure of each passenger train from such station; but nothing herein contained shall require said company to keep such office open between nine o'clock P. M. and five o'clock A. M., except at Albany, Schenectady, Utica, Syracuse, Rochester, Buffalo and Suspension Bridge, which shall be kept open as hereinbefore required between five o'clock A. M. and eleven o'clock P. M.

§ 2. If any person shall at any station, where a ticket office is established and open, enter the cars of said company, as a passenger thereon, without having first purchased a ticket for that purpose, it shall be lawful for the said company to demand and receive from such person a sum not exceeding five cents in addition to the usual rate of fare for the distance such person may desire to be transported.

CHAP. 474, LAWS OF 1855.

AN ACT for the protection of emigrants, second-class, steerage and deck passengers.

SECTION 1. It shall be the duty of all companies, associations and persons, hereafter undertaking to transport or convey, or engaged in transporting or conveying, by railroad, steamboat, canal boat or propeller, any immigrant, second-class, steerage or deck passenger from the city, bay, or harbor of New York, to any point or place, distant more than ten miles therefrom, or from the cities of Albany, Troy and Buffalo, the town or harbor of Dunkirk, or the Suspension Bridge, to any other place or places, to deliver to the mayors of the city of New York, Albany, Troy and Buffalo, on or before the first day of April in each and every year, a written or printed statement of the price or rates of fare to be charged by such company, association or person, for the conveyance of such immigrant, second-class, steerage and deck passengers respectively, and the price per hundred pounds for the carriage of the luggage, and the weight of luggage to be carried free, of such passengers from and to each and every place, from and to which any such company, association, or person shall undertake to transport and convey such passengers; and such prices or rates shall not exceed the prices and rates charged by the company, association or person, after the time of delivering such statement to the said mayors, and such statement shall also contain a particular description of the mode and route by which such passengers are to be transported and conveyed, specifying whether it is to be by railroad, steamboat, canal boat or propeller, and what part of the route is by each, and also the class of passage, whether by immigrant trains, second-class, steerage or deck passage. In case such companies, association or person shall desire thereafter to make any change or alteration in the rates or prices of such transportation and conveyance, they shall deliver to said mayors respectively a similar statement of the prices and rates as altered and changed by them; but the rates and prices so changed and altered shall not be charged or received until five days after the delivery of the statement thereof to the said mayors respectively.

§ 2. Every ticket, receipt or certificate which shall be made or issued by any company, association or person, for the conveyance of any immi-

grant, second-class, steerage or deck passengers, or as evidence of their having paid for a passage, or being entitled to be conveyed from either or any of the points or places in the first section of this act mentioned to any other place or places, shall contain or have endorsed thereon a printed statement of the names of the particular railroad or railroads, and of the line or lines of steamboats, canal boats and propellers, or of the particular boats or propellers, as the case may be, which are to be used in the transportation and conveyance of such passengers, and also the price or rate of fare charged or received for the transportation and conveyance of any such passenger or passengers with his or their luggage.

§ 3. It shall not be lawful for any person or persons to demand or receive, or bargain for the receipt of any greater or higher price or rate of fare for the transportation and conveyance of any such immigrant, second-class, steerage or deck passengers with their luggage, or either, from either or any of the points or places in the first section of this act mentioned, to any other point or place, than the prices or rates contained in the statements which shall be delivered to the mayors of the cities of New York, Albany, Troy and Buffalo, and said commissioners, respectively, as in the said first section provided for, or the price or rates which shall be established and fixed for the transportation and conveyance of such passengers and their luggage, or either by the proprietors or agents of the line or lines, or means of conveyance, by which such passenger or passengers and their luggage are to be transported or conveyed. In all cases each immigrant over four years of age conveyed by railroad shall be furnished with a seat with permanent back to the same, and when conveyed by steamboat, propeller or canal boat, shall be allowed at least two and one-half feet square in the clear on deck. Such deck shall be covered and made water tight overhead, and shall be properly protected at the outsides, either by curtains or partitions, and shall be properly ventilated.

§ 4. Any company, association, person or persons violating or neglecting to comply with any of the provisions of the first or second sections of this act shall be liable to a penalty of two hundred and fifty dollars for each and every offense, to be sued for and recovered in the name of the people of this state.

* * * * *

See section 626, Penal Code, *post*.

CHAP. 779, LAWS OF 1868.

AN ACT in relation to mortgages executed by railroad companies.

CHattel Mortgages.

SECTION 1. It shall not be necessary to file or refile as a chattel mortgage any mortgage creating a lien upon real and personal property which has been or shall hereafter be executed by any corporation, as security for the payment of bonds issued by such corporation, and which has been or shall be recorded as a mortgage of real estate in each county in this state in which the real estate of said corporation included in said mortgage is located. (*Thus amended by chap. 529, Laws of 1895.*)

CHAP. 529, LAWS OF 1870.

AN ACT in relation to mechanics' liens.

PROVISIONS OF LIEN LAW EXTENDED TO RAILROAD BRIDGES AND TRESTLE WORK.

SECTION 1. The provisions of the laws relating to mechanics' liens heretofore passed shall apply to bridges and trestle work erected for railroads and materials furnished therefor and labor performed in constructing said bridges, trestle work and other structures connected therewith; and the time within which said liens may be filed shall be extended to ninety days from the time when the last work shall have been performed on said bridges, trestle work and structures connected therewith, or the time from which said materials shall have been delivered. This act shall apply to all uncompleted work commenced previous to the passage of this act.

See chapter 392, Laws of 1875, *post*.

CHAP. 84, LAWS OF 1871.

AN ACT to authorize the owners and holders of certain railroad mortgage bonds, made payable to bearer, to render the same payable to order only.

RAILROAD AND OTHER CORPORATE BONDS; HOW MADE NON-NEGOTIABLE.

SECTION 1. It shall be lawful for any person or persons owning and holding any railroad mortgage bonds, or other corporate bonds (for which a registry is not by law provided), heretofore issued, or which may be hereafter issued, and made payable in this state, and which are made payable to bearer, to render the same non-negotiable by the owner and holder indorsing upon the same and subscribing a statement that said bond is the property of such owner. And thereupon the principal sum of money mentioned in said bond shall only be payable to such owner or his legal representatives or assigns.

TRANSFERS; HOW MADE.

§ 2. The bonds described and referred to in the first section of this act may be transferred by an indorsement in blank, giving name and residence of assignor, or they may be transferred by an indorsement payable to bearer or to the order of the purchaser (naming him), subscribed by the assignor, giving name and place of residence.

See chapter 595, Laws 1873, *post*.

CHAP. 590, LAWS OF 1872.

AN ACT to regulate processions and parades in the cities of the state of New York.

NO PROCESSION OR PARADE TO INTERFERE WITH FREE PASSAGE OF CARS UPON STREET RAILWAYS.

SECTION 1. No procession or parade shall use any street upon the surface of which is a railway track or tracks by marching upon the said track or tracks, and a free passage of cars upon railway tracks shall not be interfered with by the formation, halt or march of any such procession or parade, or of the persons composing it. Whenever any procession shall find it necessary to march across a railway track, the portion of said

procession which in so marching is likely to stop the passage of any car or cars upon said track, shall come to a halt in order to permit said car to proceed. * * * * *

PENALTY.

§ 4. Every person willfully violating any provision of this act shall be guilty of a misdemeanor, punishable with a fine not exceeding twenty dollars, or imprisonment not exceeding ten days, or both, at the discretion of the court.

See section 426, Penal Code, *post*.

CHAP. 595, LAWS OF 1873.

AN ACT relative to certain negotiable corporate bonds and obligations.

HOW OWNER MAY MAKE BONDS NON-NEGOTIABLE.

SECTION 1. The owner or holder of any corporate or municipal bond or obligation (except such as are designed to circulate as currency) payable to bearer, heretofore issued, or which may hereafter be issued and payable in this state, but not registered in pursuance of any law thereof, may make the same non-negotiable (except as provided in the second section of this act), by subscribing his name to a statement indorsed thereon that such bond or obligation is his property; and thereupon the principal sum therein mentioned shall be payable only to such owner or holder, or his legal representatives or assigns.

HOW TRANSFERRED AFTER SUCH INDORSEMENT.

§ 2. The bonds and obligations mentioned in the last section, after having been endorsed as therein provided, may be transferred by an indorsement, in blank, or payable to bearer, or to order, with the addition of the assignor's place of residence.

THE PROVISIONS OF THIS ACT APPLY TO INTEREST COUPONS.

§ 3. The provisions of this act shall apply to all interest coupons accompanying any corporate or municipal bond or obligation payable in this state.

REPEAL.

§ 4. So much of chapter eighty-four of the Laws of one thousand eight hundred and seventy-one, entitled "An act to authorize the owners and holders of certain railroad mortgage bonds, made payable to bearer, to render the same payable to order only," as is inconsistent with this act is hereby repealed.

CHAP. 392, LAWS OF 1875.

AN ACT for the better security of railroad employes for labor performed.

LIEN FOR LABOR UPON ROLLING STOCK, ETC.

SECTION 1. Any person who shall hereafter perform any labor for a railroad corporation shall, on filing with the county clerk of any county in which such railroad corporation is situated, or through which the road of such corporation passes, the notice prescribed by the second section of this act, have a lien for the value of such labor upon such railroad track, rolling stock, and appurtenances, and upon the land upon which such railroad track and appurtenances are situated, to the extent of the right, title and interest of such railroad corporation in the property existing at the time of filing the said notice.

WHEN NOTICE TO BE FILED ; TO BE ENTERED BY COUNTY CLERK ON " LIEN DOCKET " ; FEE.

§ 2. Within thirty days after the performance and completion of such labor, such person shall file a notice in writing with the county clerk of the county where the property is located, specifying the amount of claim, and the corporation against whom the claim is made. The county clerk shall enter the particulars of such notice in a book to be kept in his office, to be called the "lien docket," with the name of claimant, amount claimed, the name of such corporation against which such claim is made, and the date of the filing of the notice, hour and minute. A fee of ten cents shall be paid to said clerk on filing such lien, and said notice when so filed, shall thereafter operate as an incumbrance upon said property.

VALUE OF LABOR TO BE PROVED ON TRIAL.

§ 3. Any person performing labor, in availing himself of the provisions of this act, shall, upon the trial, or at the assessment of damages, produce evidence to establish the value of such labor, and that the same was performed for such railroad corporation.

LIEN, HOW ENFORCED.

§ 4. Any laborer performing any work, or assignee thereof, may, after such labor is performed, and the services of the notice required by the first section of this act, bring an action in any of the courts of the county in which said property is situated, to enforce said lien, requiring such railroad corporation to appear, by attorney, within thirty days after such service and answer the same, or, in default thereof, the claimant may take judgment for the amount of claim and costs.

LIEN TO CONTINUE ONE YEAR.

§ 5. Every lien created under the provisions of this act, shall continue until the expiration of one year, unless sooner discharged by the court or some legal act of the claimant in the proceedings ; but when a judgment is entered therein, and docketed with the county clerk within said year, it shall be a lien upon the real property of the railroad corporation against whom it is obtained to the extent that other judgments are now made a lien thereon.

PRIORITY OF LIENS.

§ 6. The liens created and established by virtue of the provisions of this act shall be paid and settled according to the priority of the notice filed with the county clerk, as directed by the second section hereof.

LIENS, HOW DISCHARGED.

§ 7. All liens created by this act may be discharged as follows:

1. By filing with the county clerk a certificate of the claimant, or his successors in interest, acknowledged or proved in the same manner as a conveyance of real estate, stating that the lien has been paid or discharged; or
2. By depositing with the court or clerk of the court a sum of money equal to double the amount claimed, which money shall be thereupon held subject to the determination of the lien; or
3. By an entry of the county clerk made in the book of liens, that the proceedings on the part of the claimant have been dismissed by the court in which it is brought, or a judgment rendered against the said claimant; or
4. By an affidavit of the service of a notice from such railroad corporation, or its attorney, to the claimant, requiring such claimant to commence an action for the enforcement of said lien within twenty days after service of said notice, and the failure of said claimant to commence an action as aforesaid.

PERSONAL LIABILITY OF STOCKHOLDERS; NOTICE; TIME FOR COMMENCING ACTION.

§ 8. Each and all the stockholders of such corporation shall be jointly and severally liable for the debts due or owing to any of its laborers or servants, other than contractors, for personal service for ninety days' service, or less than ninety days' service, performed for such corporation, but shall not be liable to an action therefor, before an execution shall be returned unsatisfied in whole or in part against the corporation, and the amount due on such execution shall be the amount recoverable with costs against such stockholders; before such laborer or servant shall charge such stockholders for such ninety days' service, or less than ninety days' service, he shall give notice in writing, within twenty days after the performance of such service, that he intends to so hold him liable, and shall commence such action therefor within thirty days after the return of such execution unsatisfied, as above mentioned; and every such stockholder against whom any such recovery by such laborer or servant shall have been had, shall have a right to recover the same of the other stockholders in such corporation in ratable proportion to the amount of the stock they shall respectively hold with himself.

CHAP. 508, LAWS OF 1875.

AN ACT to amend section third of title four of chapter eight of part third of the revised statutes.

§ 3. In suits brought by or against a corporation created by or under any statute of this state, it shall not be necessary to prove on the trial of

the cause the existence of such corporation, unless the defendant shall have alleged in the answer in the action that the plaintiffs or defendants, as the case may be, are not a corporation, nor unless the allegations in the answer that the defendant is not a corporation be verified under oath in the manner provided by law for the verification of pleadings in actions in courts of record.

CHAP. 134, LAWS OF 1878.

AN ACT in relation to infectious and contagious diseases of animals.

(So much of section two of said act as is applicable to railways.)

* * * * *

To order all or any animals coming into the state to be detained at any place or places for the purpose of inspection and examination.

To prescribe regulations for the destruction of animals affected with infectious or contagious disease, and for the proper disposition of their hides and carcasses, and of all objects which might convey infection or contagion, provided that no animal shall be destroyed unless first examined by a medical or veterinary practitioner in the employ of the governor as aforesaid.

To prescribe regulations for the disinfection of all premises, buildings, boats and railway cars, and of all objects from or by which infection or contagion may take place or be conveyed.

To alter and modify from time to time, as he may deem expedient, the terms of all such proclamations, orders and regulations, and to cancel or withdraw the same at any time. (*As am'd by chap. 286, Laws 1888.*)

CHAP. 317, LAWS OF 1881.

AN ACT to authorize a change in certain cases, of the time for holding elections in railroad companies.

COMPANIES MAY CHANGE TIME FOR HOLDING ELECTIONS.

SECTION 1. Any railroad company, the time for the annual election of directors in which is now fixed for any day in the month of June, may, by a vote of a majority of the stock, either in person or by proxy thereof to that effect, and filing in the office of the secretary of state a copy of such proceedings, certified by the secretary of the company under its corporate seal, change the time for holding such annual election to any day in the month of April; provided, however, that the first election held under such resolution shall be held in the month of April which shall precede the time at which such election would otherwise have been held.

CHAP. 452, LAWS OF 1881.

AN ACT to authorize corporations owning canals to construct and operate railroads alongside of or in lieu thereof.

CORPORATION OWNING CANAL MAY CONSTRUCT RAILROAD.

SECTION 1. It shall be lawful for any corporation of this state owning and operating a canal to construct and operate along or in lieu of such canal a railroad, and the exercise of the authority hereby conferred shall not be deemed to forfeit or impair its corporate rights under its charter or act of incorporation.

CORPORATE POWERS.

§ 2. Such company, in the construction and maintenance of any such railroad under the authority of this act, shall have, possess and enjoy all the powers and privileges contained in an act entitled "An act to authorize the formation of railroad corporations and to regulate the same," passed April 2, 1850, and the several acts amending the same, and be subject to all the duties, liabilities and provisions so far as relates to any powers or privileges by this act upon said company conferred and hereafter exercised.

NOT AUTHORIZED TO CONSTRUCT RAILROAD IN ANY OTHER LOCALITY.

§ 3. Nothing in this act contained shall authorize the construction of any railroad except upon or along such canal owned and operated by any such company, and not in any other locality.

CHAP. 378, LAWS OF 1883.

AN ACT in relation to receivers of corporations.

APPLICATION FOR APPOINTMENT OF RECEIVER, WHERE MADE.

SECTION 1. Every application hereafter made for the appointment of a receiver of a corporation, other than applications made by the attorney-general on behalf of the people of the state, shall be made at a special term of the supreme court, held in and for the judicial district in which the principal business office of the corporation is located; and all such applications made by the attorney-general shall be made in the judicial district in which the action in which the appointment is sought is triable; and any action or proceeding hereafter brought by the attorney-general on behalf of the people of the state against any corporation for the purpose of procuring its dissolution, the appointment of a receiver, or the

sequestration of its property, may be brought in any county of the state, to be designated by the attorney-general. (*Thus amended by chap. 282, Laws of 1896.*)

COMPENSATION.

§ 2. Every receiver shall be allowed to receive, as compensation for his services as such receiver, five per centum for the first \$100,000 received and paid out, and two and a half per centum on all sums received and paid out in excess of the said \$100,000. But no receiver shall be allowed or shall receive, from such percentages or otherwise, for his services for any one year, any greater sum or compensation than \$12,000, nor for any period less than one year more than at the rate of \$12,000 per year, provided that where more than one receiver shall be appointed, the compensation herein provided shall be divided between such receivers. (*Thus amended by chap. 275, Laws 1886.*)

ORDER APPOINTING RECEIVER TO DESIGNATE PLACE OF DEPOSIT.

§ 3. All orders appointing receivers of corporations shall designate therein one or more places of deposit, wherein all funds of the corporation not needed for immediate disbursement shall be deposited, and no deposits or investments of such trust funds shall be made elsewhere, except upon the order of the court upon due notice given to the attorney-general.

DUTIES OF RECEIVER.

§ 4. It shall be the duty of every receiver of an insurance, banking or railroad corporation, or trust company, to present every six months to the special term of the supreme court, held in the judicial district wherein the place of trial or venue of the action or special proceeding in which he was appointed may then be, on the first day of its first sitting, after the expiration of such six months, and to file a copy of the same, if a receiver of a bank or trust company, with the bank superintendent; if a receiver of an insurance company, with the superintendent of insurance; and in each case with the attorney-general, an account exhibiting in detail the receipts of his trust, and the expenses paid and incurred therein during the preceding six months; and it shall be unlawful for any receiver of the character specified in this section to pay to any attorney or counsel any

costs, fees or allowances until the amounts thereof shall have been stated to the special term in this manner, as expenses incurred, and shall have been approved by that court, by an order of the court duly entered; and any such order shall be the subject of review by the appellate division and the court of appeals on an appeal taken therefrom by any party aggrieved thereby. Of the intention to present such account, as aforesaid, the attorney-general, and also the surety or sureties on the official bond of such receiver, shall be given eight days' notice in writing; and the attorney-general shall examine the books and accounts of such receiver at least once every twelve months. (*Thus amended by chap. 139, Laws of 1896.*)

INTERVENOR TO PAY HIS OWN LEGAL EXPENSES; NO ALLOWANCE TO BE MADE FOR COSTS TO ATTORNEYS.

§ 5. In case of the intervention of any policy holder or depositor, by permission of the court, such policy holder or depositor shall defray the legal expenses thereof, and no allowance shall be made for costs or fees to any attorney of such policy holder or depositor.

RECEIVER TO CLOSE UP AFFAIRS WITHIN ONE YEAR.

§ 6. The affairs of every insolvent corporation now in the hands of any receiver shall be fully closed up by the receiver thereof within one year from the passage of this act, unless the court, upon application by said receiver, and upon due notice to the attorney-general, shall give additional time for that purpose.

ATTORNEY-GENERAL MAY APPLY TO HAVE RECEIVER REMOVED; APPEAL.

§ 7. The attorney-general may, at any time he deems that the interests of the stockholders, creditors, policyholders, depositors or other beneficiaries interested in the proper and speedy distribution of the assets of any insolvent corporation will be subserved thereby, make a motion in the supreme court at a special term thereof, in any judicial district, for an order removing the receiver of any insolvent corporation and appointing a receiver thereof in his stead, or to compel him to account, or for such other and additional order or orders as to him may seem proper to facilitate the closing up of the affairs of such receivership, and any appeal from any order made upon any motion under this section shall be to the general term of said court of the department in which such motion is made.

COPIES OF ALL PAPERS TO BE SERVED ON ATTORNEY-GENERAL.

§ 8. A copy of all motions and all motion papers, and a copy of any other application to the court, together with a copy of the order or judgment to be proposed thereon to the court, in every action or proceeding now pending for the dissolution of a corporation or a distribution of its assets, or which shall hereafter be commenced for such purposes shall, in all cases, be served on the attorney-general, in the same manner as provided by law for the service of papers on attorneys who have appeared in actions, whether the applications but for this law would be *ex parte* or upon notice, and no order or judgment granted shall vary in any material respect from the relief specified in such copy or order unless the attorney-general shall appear on the return day and have been heard in relation thereto; and any order or judgment granted in any action or proceeding aforesaid, without such service of such papers upon the attorney-general, shall be void, and no receiver of any such corporation shall pay to any person any money directed to be paid by any order or judgment made in any such action or proceeding, until the expiration of eight days after a certified copy of such order or judgment shall have been served as aforesaid upon the attorney-general.

APPLICATIONS UNDER THIS ACT; WHERE TO BE MADE; VENUE CHANGED.

§ 9. All applications to the court contemplated by this act shall be made in the judicial district where the principal office of the corporation against which proceedings are taken is located, excepting such applications as are made in actions brought by the attorney-general on behalf of the people of the state, and all such applications shall be made in the judicial district in which the action is triable. (*Thus amended by chap. 282, Laws of 1896.*)

PREFERENCE ON CALENDAR.

§ 10. All actions or other legal proceedings and appeals therefrom, or therein brought by or against a receiver of any of the insolvent corporations referred to in this act, shall have a preference upon the calendars of all courts next in order to actions or proceedings brought by the people of the State of New York.

REPEAL.

§ 11. All acts or parts of acts inconsistent herewith are hereby repealed.

CHAP. 383, LAWS OF 1883.

AN ACT entitled "An act relating to certain contracts for the lease or conditional sale of railroad equipment and rolling stock and providing for the record thereof."

CONDITIONAL SALE, LEASE OR LOAN OF EQUIPMENT AND ROLLING STOCK TO BE INVALID AS TO JUDGMENT CREDITORS AND PURCHASERS WITHOUT NOTICE, UNLESS EVIDENCED IN WRITING AND RECORDED.

SECTION 1. Whenever any railroad equipment and rolling stock shall hereafter be sold, leased or loaned on the condition that the title to the same, notwithstanding the possession and use of the same by the vendee, lessee or bailee, shall remain in the vendor, lessor or bailor, until the terms of the contract as to the payment of the installments, amounts or rentals payable, or the performance of other obligations thereunder shall have been fully complied with, but also providing that title thereto shall pass to the vendee, lessee or bailee on full payment therefor as aforesaid, such contracts shall be invalid as to any subsequent judgment creditor or any subsequent purchaser for a valuable consideration without notice, unless

1. The same shall be evidenced by writing, duly acknowledged before some person authorized by law to take acknowledgments of deeds.

2. Such writing shall be recorded in the same book as mortgages are recorded, in the office of the clerk of the county in which is located the principal office or place of business of such vendee, lessee or bailee within the state, or in the office of the register in counties where there is a register's office.

3. Each locomotive or car so sold, leased or loaned, shall have the name of the vendor, lessor or bailor, or the assignee of such vendor, lessor or bailor plainly marked upon both sides thereof, followed by the word owner, lessor, bailor or assignee, as the case may be.

NOT TO INVALIDATE ANY CONTRACT HERETOFORE MADE IF RECORDED WITHIN NINETY DAYS.

§ 2. This act shall not be held to apply to or invalidate any contract heretofore made of the character described in the first section, but the same shall be and remain valid if recorded within ninety days from the date hereof.

CHAP. 285, LAWS OF 1884.

AN ACT to provide for the transfer of securities and property by bankrupt corporations to the receivers of such corporations, and for the transfer by the superintendent of the insurance department to receivers of insolvent life insurance and annuity companies of funds and securities deposited with such superintendent by such companies for the security of policyholders.

WHERE RECEIVERS HAVE OR SHALL BE APPOINTED FOR ANY CORPORATION OTHER THAN AN INSURANCE COMPANY ON APPLICATION BY ATTORNEY-GENERAL, PROPERTY TO VEST IN RECEIVER; PROVISIO.

SECTION 1. In all cases where receivers have been or shall be appointed for any corporation of this state other than an insurance company, on application by the attorney-general, all property, real and personal, and all securities of every kind and nature belonging to such corporation, no matter where located or by whom held, shall be transferred to, vested in, and held by such receiver, provided, however, that such transfer shall only be made when directed by an order of the supreme court, due notice of the application for such order having been made on the attorney-general, and the custodian of the funds, securities, or property.

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CHAP. 376, LAWS OF 1885.

AN ACT to provide for the payment of wages to employes, operatives and laborers of domestic corporations, other than insurance and moneyed corporations, of which a receiver shall be appointed.

WAGES OF EMPLOYES TO BE PREFERRED.

SECTION 1. Where a receiver of a corporation created or organized under the laws of this state and doing business therein, other than insurance and moneyed corporations, shall be appointed, the wages of the employes, operatives, and laborers thereof shall be preferred to every other debt or claim against such corporation, and shall be paid by the receiver from the moneys of such corporation which shall first come to his hands.

CHAP. 488, LAWS OF 1885.

AN ACT to amend chapter three hundred and fifteen of the laws of eighteen hundred and eighty-four, entitled "An act requiring contracts for the conditional sale of personal property on credit to be filed in the town clerks' and other offices."

AMENDING SECTION 2, CHAPTER 315, LAWS OF 1884.

SECTION 1. Section two of chapter three hundred and fifteen of the Laws of eighteen hundred and eighty-four, entitled "An act requiring contracts for the conditional sale of personal property on credit to be filed in the town clerk's and other offices," is hereby amended so as to read as follows :

INSTRUMENTS, WHERE TO BE FILED.

§ 2. The instruments mentioned in the preceding section shall be filed in the several towns and cities of this state, where the person to whom such property is so contracted to be sold, if a resident of this state, shall reside at the time of the execution thereof ; and if not a resident, then in the city or town where the property so contracted to be sold shall be at the time of the execution of such instrument. In the city of New York such instrument shall be filed in the office of the register of the city, and in the county of Kings in the office of the register of said county. In the several cities of this state other than the cities of New York and Brooklyn, and in the several towns of this state in which a county clerk's office is kept, in such office ; and in each of the other towns in this state, in the office of the town clerk thereof. If the conditional vendee be a railroad corporation, the instrument mentioned in the preceding section shall be filed in the office of the clerk of each county through which its railroad is located, or, in counties where there is a register, in the office of the register ; and such filing shall be deemed sufficient for all the purposes of this act. Such registers and clerks are hereby required to file all such instruments aforesaid, presented to them respectively for that purpose, and to indorse thereon the time of receiving the same, and shall deposit the same in their respective offices, to be kept there for the inspection of all persons interested.

CHAP. 490, LAWS OF 1885.

AN ACT concerning tramps.

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PENALTY FOR ENTERING BUILDING WITHOUT CONSENT.

§ 4. Any tramp who shall enter any building against the will of the owner or occupant thereof, under such circumstances as shall not amount

to burglary, or willfully or maliciously injure the person or property of another, which injury under existing law does not amount to a felony, or shall be found carrying any firearms or other dangerous weapon, or burglars' tools, or shall threaten to do any injury to any person or to the real or personal property of another, when such offense is not now punishable by imprisonment in the state prison, shall be deemed guilty of felony, and on conviction shall be punished by imprisonment in the state prison at hard labor for not more than three years.

CHAP. 310, LAWS OF 1886.

AN ACT to provide for the winding up of corporations which have been annulled and dissolved by legislative enactment.

DUTY OF ATTORNEY-GENERAL.

SECTION 1. Whenever any corporation organized under the laws of this state shall be annulled and dissolved by an act of the legislature, it shall be the duty of the attorney-general immediately thereafter to bring a suit to wind up and finally settle and adjust the affairs of such annulled and dissolved corporation.

SUIT, WHERE TO BE BROUGHT.

§ 2. Such suit shall be brought in the supreme court in the name of the people of the state, in any county which the attorney-general may select. The president, or vice-president, or secretary, or treasurer of such dissolved corporation, who may have been in office at the time of the dissolution thereof, shall be named, as such officer, as defendant in such suit, and the summons and complaint therein shall be served upon him. If, at the time of such annulment and dissolution, there shall not be one of the above designated officers of such corporation, then such suit shall be brought against and the summons and complaint therein served upon any one of the persons who were last acting as directors of such corporation.

COURT TO APPOINT RECEIVER.

§ 3. It shall be the duty of the special term of the supreme court in the county designated in such summons and complaint, or of any judge of said court who resides in the judicial department in which such county is situated, upon the presentation of a certified copy of the act of the legislature annulling and dissolving a corporation, and of the summons and complaint founded thereon, immediately to appoint a receiver of the assets and property of such dissolved corporation; and the person so appointed

shall be both the temporary and permanent receiver thereof, and shall give a bond with sureties, to be approved by said court or such judge thereof, to the people of the state in the penalty of not less than \$10,000, conditioned for the faithful discharge of his duties as such receiver, and for his due accounting for, and paying over all moneys and property which may come to his hands as such receiver. No one of the officers, directors or stockholders of such corporation shall be appointed such receiver thereof.

RECEIVER TO MAKE INVENTORY.

§ 4. Such receiver shall, immediately after his appointment and the approval of his bond, cause an inventory of all the property of such dissolved corporation to be taken and filed in the office of the clerk of the county in which such action is pending, and for the purpose of ascertaining the nature, extent and location of such property, the said receiver shall have power to compel the attendance of witnesses, as hereinafter provided, and all evidence taken by or before said receiver in relation to such property shall be filed by him in the office of such county clerk.

NOTICE TO CREDITORS; POWERS AND DUTIES OF RECEIVERS; CREDITORS TO PRESENT CLAIMS.

§ 5. The said receiver shall, immediately after his appointment, publish in two newspapers to be designated by said court, or such judge thereof, daily for one week, and for such longer time, not exceeding one month, as the said court or such judge thereof may by order designate, a notice to all creditors of such dissolved corporation to present their claims and demands against, and all evidences of indebtedness of such dissolved corporation, to such receiver at a time and place to be designated in such notice. Such receiver is hereby authorized to examine on oath any of such creditors, or claimants, or other witnesses, as to any and all matters pertaining to any claim or demand or evidence of indebtedness so presented. At the expiration of ten days from the date specified in such notice, or within such further time as may be allowed by said court or such judge thereof, the said receiver shall make a list of all the claims presented to or proved before him, in which list he shall specify the amount, origin and true consideration of each claim so presented to or proved before him, and the name of the person in whose behalf the same is presented or proved, and the date when such claimant became the true owner thereof. Such list when so completed shall be verified by such receiver, and shall thereupon be filed, together with such evidence as may have been taken by him, in the office of the said county clerk. The said receiver shall, immediately after such filing, publish a notice

daily for fourteen days in two newspapers to be designated by said court, or such judge thereof, stating that such list will be presented to such court, or to a judge thereof, residing in such county, on a day and at a place to be designated in such notice, and the said court, or such judge thereof, will then and there be asked for an order directing the sale at public auction of all the property specified in such inventory. Any creditor or stockholder may appear and be heard at such time and place. It shall be the duty of said court, or of such judge thereof, to whom such list shall be presented, to examine the same, together with such evidence as the receiver shall have taken, and to reject all claims, demands and evidences of indebtedness which were not legally incurred or created by said corporation, or which were in excess of its powers, or which are for any reason shown to be illegal; and no claim or demand shall be allowed for any greater amount than the money value of the consideration therefor, unless the said court or judge shall find and decide from the evidence taken by and before the receiver, that the person professing to own such claim does in truth own the same by reason of having taken a negotiable instrument or paper before the act dissolving and annulling the corporation alleged to be bound by such instrument or paper, and also before such instrument or paper was by its terms due, and that the same was taken for value paid, and parted with in good faith before said act of dissolution, and without knowledge or notice of any defect, want or deficiency of previous consideration, or other equity, offset or defense originally attaching to such instrument or paper, or to the claim or demand upon which the same are founded. Such examination and rejection shall be made by such court or such judge thereof, and not by any referee.

WHEN CLAIM OF CREDITOR IS DEBARRED; RIGHT OF CREDITOR TO APPEAL; SALE OF PROPERTY; ALLOWANCE TO RECEIVER; DISTRIBUTION OF ASSETS.

§ 6. All creditors whose claims shall not have been presented as above provided shall be debarred from participating in the avails of the sale of the property described in said inventory. Any creditor whose claim may have been rejected, and who shall have appealed, may apply to said court or such judge thereof for an order that a pro rata amount of the avails of such sale which would have appertained to the claim of such creditor, had not the same been rejected, may be retained in court to abide the result of his appeal, and said court, or such judge thereof, shall have discretion to grant the same. Any claimant feeling aggrieved by such rejection may appeal therefrom to the general term and to the Court of Appeals, in the manner now provided by law for such appeals

from orders in civil actions, but neither of such appeals shall stay the proceedings of such receiver or court, or judge thereof, or a sale of such property as herein provided for. The amount of all claims and demands so rejected by said court or such judge shall be deducted from the total amount of claims and demands so filed by the said receiver, and an entry of such rejection shall be made upon said list by said court or such judge, and thereupon the said court or such judge shall by order, reciting the proceedings direct the immediate sale by said receiver, at public auction, at a time and place and in the manner, and after such notice as may be provided in said order, of all the property in said inventory specified, to such person, firm or corporation as shall bid the highest sum or amount therefor. The receiver shall report to said court or such judge thereof, the name of the highest bidder, the amount bid, and thereupon said court or such judge thereof shall by order forthwith direct the said receiver by proper written instrument to convey and transfer all of the property described in said inventory, and offered for sale at said auction, to said highest bidder, who on receiving the same shall pay to the receiver the sum bid. The said court or such judge thereof shall allow to the receiver two per cent. upon the whole amount received by him from the sale of the property described in said inventory for his compensation as such receiver, and also his disbursements, including witness' fees, and the service of subpoenas, and to the attorney-general, and to such other counsel as the receiver may find it necessary to employ, a reasonable counsel fee. The residue of the amount in the hands of the receiver shall be by him distributed among the owners of the claims in said list, which have been allowed subject to the deductions above provided for in case of an appeal, pro rata, or in full if such residue shall be sufficient therefor, and the receipts of such owners therefor shall be taken upon such list of claims. The balance of such residue, if any, shall be distributed among the lawful stockholders of such corporation in proportion to their interest therein.

PROCEEDINGS NOT TO BE STAYED.

§ 7. No issue raised by answer, or demurrer, or otherwise, to the complaint hereinbefore provided for shall stay the proceedings of the receiver, or court or a judge thereof.

DISCHARGE OF RECEIVER.

§ 8. The said receiver after such payment may apply to said court, or a judge thereof for his final discharge, and if it shall appear that the said receiver has in all things fulfilled his duty in the premises, the said court or judge shall grant such final discharge, and said receiver, until so dis-

charged, may as such receiver sue for and collect all debts due, and demands owing to such corporation.

SUBPŒNAS, BY WHOM ISSUED; RECEIVER MAY ADMINISTER OATHS; FALSE SWEARING, PERJURY.

§ 9. It shall be the duty of the clerk of the county in which such suit is brought, to issue, upon the request of the receiver, subpoenas to compel the attendance of witnesses to enable him to ascertain the nature, extent and location of the property of said corporation, and to give evidence concerning any claim which may be presented by any creditor against the estate of such corporation, which subpoenas shall be served in like manner as in civil actions, and the fees of the witness shall be the same as are now established by law in such actions. The receiver shall have full power and authority to administer oaths to all such witnesses and to any creditor of such dissolved corporation, and to examine them concerning the property of such dissolved corporation, and as to the claims presented against it. Disobedience to such subpoenas shall be a contempt of court, and shall be punished in like manner as other contempt of court are now punishable. Willful false swearing by any witness or creditor in any such examination shall be deemed perjury, and shall be punishable as such in like manner as if committed by a witness on a trial of a civil action.

LEAVE TO SUE RECEIVER, HOW AND WHERE OBTAINABLE.

§ 10. All applications for leave to sue such receiver and all applications for injunctions to restrain his proceedings, shall be made only to the supreme court in the county in which such action was brought, and shall not be made to any other court, or to the supreme court in any other county, and shall not be granted except upon eight days' notice to the attorney-general of the time and place of making such application. In any action hereafter brought or now pending by the attorney-general, to close up, determine, or settle the affairs of any corporation dissolved by legislative enactment, the judgment or determination of the supreme court at general term may be reviewed upon appeal to the court of appeals, as now provided by law, whether the judgment rendered in the case be interlocutory or final. (*Thus amended, chap. 601, Laws of 1887.*)

REPEAL, ETC.

§ 11. This act shall take effect immediately, and all acts and parts of acts inconsistent therewith are hereby repealed.

CHAP. 63, LAWS OF 1887.

AN ACT to provide for the amicable adjustment of grievances and disputes that may arise between employers and employes and to authorize the creation of a state board of mediation and arbitration.

* * * * *

ACT APPLICABLE TO ALL CORPORATIONS.

§ 13. Whenever the term "employer" or "employers" is used in this act, it shall be held to include "firm," "joint stock association," "company" or "corporation," as fully as if each of the last-named terms was expressed in each place.

CHAP. 529, LAWS OF 1887.

AN ACT to regulate the hours of labor in the street surface and elevated railroads chartered by the state, in cities of 100,000 inhabitants and over.

HOURS OF LABOR ON SURFACE STREET AND ELEVATED RAILROADS.

SECTION 1. Ten hours' labor to be performed within twelve consecutive hours, with reasonable time for meals, shall constitute a day's labor in the operation of all street surface and elevated railroads owned or operated by corporations incorporated under the laws of this state, whose main line of travel, or whose routes lie principally within the corporate limits of cities of more than 100,000 inhabitants, whatever motive power may be used in the operation of such railroads.

VIOLATION OF ACT A MISDEMEANOR.

§ 2. It shall be a misdemeanor for any officer or agent of any such corporation to exact from any of its employes more than ten hours' labor, the same to be performed within twelve consecutive hours, with not less than one-half hour for dinner, constituting a day; provided, however, that in cases of accident or unavoidable delay, extra labor may be permitted for extra compensation.

HOW APPLICABLE.

§ 3. This act shall not affect contracts now in force, nor apply to existing corporations whose charters are not subject to alteration, modification or repeal.

REPEAL.

§ 4. All acts inconsistent with this act are hereby repealed.

CHAP. 225, LAWS OF 1888.

AN ACT further to amend chapter 315 of the Laws of 1884, entitled "An act requiring contracts for the conditional sale of personal property on credit to be filed in the town clerk's and other offices."

SECTION 1. Section seven of chapter three hundred and fifteen of the Laws of eighteen hundred and eighty-four, entitled "An act requiring contracts for the conditional sale of personal property on credit to be filed in the town clerk's and other offices," as the same was amended

by chapter four hundred and eighty-eight of the Laws of eighteen hundred and eighty-five, and by chapter four hundred and ninety-five of the Laws of eighteen hundred and eighty-six, is hereby further amended so as to read as follows :

§ 7. * * * This act shall not apply to railroad equipment or rolling-stock sold, leased or loaned, under a contract which has been or must be recorded pursuant to the provisions of chapter three hundred and eighty-three of the Laws of eighteen hundred and eighty-three, entitled "An act relating to certain contracts for the lease or conditional sale of railroad equipment and rolling-stock, and providing for the record thereof."

CHAP. 38, LAWS OF 1889.

AN ACT to regulate the payment of fares upon railroads.

EXTRA FARE MAY BE EXACTED WHEN NO TICKET IS PURCHASED; REBATE TICKET TO BE ISSUED THEREFOR.

SECTION 1. It shall be lawful for any company owning or operating a steam railroad in this state to demand and collect an excess charge of ten cents over the regular or established rate of fare, from any passenger who pays fare in the car in which he or she may have taken passage, except where such passage is wholly within the limits of any incorporated city in this state; provided, however, that it shall be the duty of such company to give to any passenger paying such excess a receipt or other evidence of such payment, and which shall legibly state that it entitles the holder thereof to have such excess charge refunded upon the delivery of the same at any ticket office of said company, upon the line of their railroad, and said company shall refund the same upon demand; and provided, further, that this act shall not apply to any passenger taking passage from a station or stopping place when tickets cannot be purchased during half an hour previous to the schedule time for the departure of said train on which such passenger takes passage.

CHAP. 381, LAWS OF 1889.

AN ACT to provide for the cash payment of wages by corporations.

WAGES PAYABLE ONLY IN CASH.

SECTION 1. Every manufacturing, mining or quarrying, mercantile, railroad, street railway, canal, steamboat, telegraph, and telephone corporation and every incorporated express company, and water company not municipal, shall pay to each and every employe engaged in its business the wages earned by such employe in cash; and it shall not be law-

ful for any of the above-named companies or corporations to pay their employes in their own scrip or that of others commonly known as store money orders.

PENALTY FOR VIOLATION OF ACT.

§ 2. Any corporation violating any of the provisions of this act shall be punished by a fine not exceeding fifty, and not less than ten dollars, on each complaint on which it is convicted, provided complaint for such violation is made within thirty days from the date thereof.

ACT WHEN TO GO INTO OPERATION.

§ 3. This act shall take effect upon the first day of July, one thousand eight hundred and eighty-nine.

CHAP. 555, LAWS OF 1890.

AN ACT to provide for the improvement and maintenance of the public roads in certain counties as county roads.

* * * * *

CONSTRUCTION OF HORSE, ELECTRIC OR OTHER RAILWAYS.

§ 7. No horse railway or electric or other railway shall be laid, constructed or operated on said county roads, unless, in addition to the requirements of existing laws, the same shall be authorized by a two-third vote of the board of supervisors and unless the same shall be constructed with a flat or grooved rail, and in case of horse railways, paved between the tracks in the manner prescribed by the board of supervisors in the resolution authorizing the same, and the same constantly maintained in good order and condition by said railroad company, and the railroad or corporation constructing the same shall agree thereto, and it shall be the duty of the said board of supervisors to require from said railroad or corporation, or other person, a bond with sufficient sureties as a guarantee, and conditioned for the performance of their agreement, and the board of supervisors may, from time to time, require such bond to be renewed in case the sureties, or any of them, in its judgment, shall become insufficient.

CHAP. 566, LAWS OF 1890.

AN ACT in relation to transportation corporations, excepting railroads, constituting chapter forty of the general laws.

* * * * *

CROSSINGS.

§ 33. Whenever any tramway, constructed by any such corporation, shall cross a railroad, highway, turnpike, plank-road or canal, such tram-

way shall be so constructed as not to interfere with the free use of such railroad, highway, turnpike, plank-road or canal for the purposes for which they were intended.

* * * * *

RAILROAD, TURNPIKE, PLANK-ROAD AND HIGHWAY CROSSINGS.

§ 43. Whenever any line of pipe of any such corporation shall necessarily cross any railroad, highway, turnpike or plank-road, such line of pipe shall be made to cross under such railroad, highway, turnpike or plank-road and with the least injury thereto practicable, and unless the right to cross the same shall be acquired by agreement, compensation shall be ascertained and made to the owners thereof, or to the public in case of highways, in the manner prescribed in the condemnation law, but no exclusive title or use shall be so acquired as against any railroad, turnpike or plank-road corporation, nor as against the rights of the people of this State in any public highway, but the rights acquired shall be a common use of the lands in such manner as to be of the least practical injury to such railroad, turnpike or plank-road consistent with the use thereof by such pipe line corporation, nor shall any such corporation take or use any lands, fixtures or erections of any railroad corporation, or have the right to acquire by condemnation the title or use, or right to run along or upon the lands of any such corporation, except for the purpose of directly crossing the same when necessary.

CHAP. 267, LAWS OF 1891.

AN ACT to authorize change of gauge on railroads and to provide for an increase of floating and bonded indebtedness.

SECTION 1. Any railroad company incorporated under chapter one hundred and forty of the laws of eighteen hundred and fifty, entitled "An act to authorize the formation of railroad corporations and to regulate the same," and acts amendatory thereof and supplementary thereto, may change the gauge of its road on consent of the board of railroad commissioners and approval of the stockholders of said railroad company owning three-fourths in amount of the capital stock, said approval of said stockholders to be made at a special meeting of the stockholders of said company called for that purpose; and upon like consent of said board of railroad commissioners, and upon like approval of the stockholders of said railroad company owning three-fourths in amount of the said capital stock of said company, the floating and bonded indebtedness of said railroad company may be increased to

an amount necessary to make such change of gauge and to provide for the operating expenses of said railroad, notwithstanding restrictions or limitations contained in the original certificate of incorporation of said railroad company.

CHAP. 294, LAWS OF 1891.

AN ACT in relation to elevated railways in cities.

WHEN ELEVATED ROAD MAY ABANDON PART OF ITS ROUTE; PROCEEDINGS IN SUCH CASE.

SECTION 1. Any company operating an elevated railway or railways in any city of this state for the transportation of passengers, mails or freight, and which, prior to the passage of this act shall have built and operated six-tenths of its route as set forth and embodied in its articles of incorporation, may declare relinquished* and abandoned any portion of its said route, which it may deem no longer necessary for the successful operation of its road and the convenience of the public. Such declaration of abandonment, to be valid, shall be adopted by the board of directors, under the seal of such company, and shall be submitted to the stockholders thereof at a meeting called for the purpose of taking the same into consideration. Due notice of the time and place of holding said meeting, and stating the object thereof shall be given by the company to its stockholders by written or printed notices addressed to each of the persons in whose name the capital stock of the company stands on the books thereof, at the address of such persons as stated on the books, or as known to the secretary of the company, and delivered or mailed to such persons or legal representatives of such persons, respectively, at least thirty days before the time of holding the meeting of such company, and also by a general notice published daily for at least four weeks in some newspaper last designated for the publication of the session laws or of judicial proceedings and legal notices in the county where the route of such company is located; and at the said meeting of stockholders the declaration of the said directors shall be considered and a vote by ballot taken for the adoption or rejection of the same, each share entitling the holder thereof to one vote, and said ballots shall be cast in person or by proxy, and if two-thirds of all the votes of the stockholders cast in person or by proxy at said meeting shall be for the adoption of said declaration of abandonment, then that fact shall be certified thereon by the secretary of the company under the seal thereof, and the declaration so adopted shall be submitted

* So in the original.

for approval to the state board of railroad commissioners, and if approved to them, such approval shall be indorsed thereon, and the said declaration so certified and indorsed shall be filed and recorded in the office of the secretary of state, and from the time of such filing such portion of said route designated, in such declaration of such company shall be deemed to be abandoned. A copy of such declaration of abandonment, duly certified by the secretary of state, under his official seal, shall be presumptive evidence in all courts and places of the facts which it recites, and of the regularity of the proceedings resulting in such abandonment.

CHAP. 360, LAWS OF 1891.

AN ACT to confer upon the board of railroad commissioners of the state of New York authority to compel the lighting and ventilation of all tunnels within this state which are used by steam railroads.

SECTION 1. The board of railroad commissioners of the state of New York are hereby authorized, empowered and given full and complete authority to require and compel all tunnels used or to be used by railroads operated by steam in this state to be properly ventilated in such manner and by such means and mechanical appliances as said board of railroad commissioners, or a majority of the same, may direct.

§ 2. The board of railroad commissioners, of this state are also hereby authorized, empowered and given full and complete authority to require and compel all tunnels used, or to be used by railroads operated by steam in this state, to be properly lighted by electricity or otherwise, or by such means or in such manner as said board of railroad commissioners, or a majority of the same, may direct.

§ 3. Whenever said board of railroad commissioners of this state, or a majority thereof, shall cause to be personally served upon any railroad corporation controlling any tunnel, or part of a tunnel, in this state for the purpose of operating a railroad or moving, hauling or propelling cars therein by steam by delivering a copy personally to the president, general manager or any director of said corporation of a notice or order, signed by a majority of said board of railroad commissioners, stating and specifying the structures to be erected, the manner, means, mechanical appliance and apparatus to be used in lighting or ventilating any tunnel or tunnels used by said corporation for the purpose of moving, hauling or propelling cars by steam therein as aforesaid, said corporation shall, within thirty days from and after the service of said notice or order as aforesaid, cause said tunnel or tunnels so used by it as aforesaid to be lighted or ventilated, or both, in the manner and by the means and use

of the mechanical apparatus and appliances specified and pointed out in said notice or order.

§ 4. After the expiration of thirty days from the service of said order or notice specified in the preceding section, as therein directed, if said corporation shall not have fully complied with the provisions and requirements of said notice or order as aforesaid and as therein directed and required, said board of railroad commissioners, or a majority of said board, may apply to the supreme court of this state for a writ of mandamus to compel said corporation or corporations so neglecting or refusing to obey and comply with the provisions of said order or notice to comply with and obey the provisions and requirements of said notice or order, and said court shall have full power and authority to hear and determine said matter, and, after giving the corporation or corporations proceeded against an opportunity to be heard in its or their defense, to compel said corporation or corporations so proceeded against to obey said order or notice, and forthwith comply with and carry out the provisions and requirements therein contained.

§ 5. Every corporation violating any of the provisions of this act shall be guilty of a misdemeanor, and may be indicted therefor, and may be compelled to appear and plead to an indictment therefor in the person of its president, secretary, treasurer or any director thereof, and a bench warrant may issue out of any competent court to compel such attendance and pleading, and upon conviction thereof, punished by a fine of \$1,000, and an additional fine of \$500 a day for each and every day or part of a day after thirty days from the due service of said notice or order that said corporation shall refuse or neglect to obey and carry out the requirements and provisions of the same, and duly sentenced to pay the same.

§ 6. It shall be the duty of the district attorney prosecuting any corporation for a violation of any of the provisions of this act, that shall be convicted thereof, and sentenced to pay a fine therefor, to cause a judgment-roll to be made up, consisting of the indictment orders and sentence of the court and a formal judgment, to be prepared by him, which judgment shall be duly signed by the clerk of the county in which said trial took place; said judgment-roll shall be filed by said county clerk and said judgment shall be duly recorded in the book of judgments in said county and duly entered and docketed by said county clerk in said county the same as if said judgment had been obtained in a civil action, and said judgment so duly entered and docketed shall become and be a lien upon all the real estate of said corporation against which the same is obtained, and the collection thereof may be enforced by execution to be issued and signed by the district attorney of the county where the trial of said indict-

ment took place, in the same manner and to the same extent as executions are collected in civil action.

§ 7. In cities in this state having a population of one million inhabitants or over, where tunnels are or may hereafter be operated or controlled by any railroad corporation, such portions of any mechanical or other devices or appliances as may be required under the provisions of this act to be constructed on or above the surface of any streets, avenues or other places under which such tunnels may be built, shall be subject as to form, material and construction, to the approval of the local authorities of such cities, except that in the city of New York such approval shall be by a majority vote of the mayor, the comptroller, the commissioner of public works and the president of the department of public parks of said city.

CHAP. 604, LAWS OF 1892.

AN ACT for the relief of street surface railroad companies organized under chapter two hundred and fifty-two of the laws of eighteen hundred and eighty-four.

Section 1. Any street railroad company now organized under chapter two hundred and fifty-two of the laws of eighteen hundred and eighty-four, which shall have heretofore constructed and is now operating any extension or branch of its railroad along any streets or highways or portion thereof within any county named in its articles of association, in a city not exceeding in population fifty thousand inhabitants, and shall heretofore have obtained the consent of the owners of one-half in value of the property bounded on and the consent also of the local authorities having control of that portion of a street or highway upon which it has constructed or operated such railroad, is hereby authorized to operate and maintain the same respectively in like manner and as fully as if the said streets and highways, or portions thereof, were fully named and described in its articles of association, and upon filing in the office of the secretary of state a certificate signed by its board of directors, which certificate shall contain a statement of the names of cities, towns, villages and counties, and the names or descriptions of the streets, avenues and highways in which such extension or branch has been constructed the places from and to which the same has been constructed and is to be maintained and operated, and the length thereof, as near as may be; thereupon the said extensions and branches shall be deemed and considered a part of the lines of railway of such corporation from the date of the filing thereof, with the same force and effect as if the same were fully named and described in its original articles of association, and all corporate action relating to the construction, maintenance and operation of such extensions or creating liens upon the same by the said corporation, are hereby validated and confirmed.

§ 2. Nothing in this act contained shall affect or impair any vested right or any pending litigation.

CHAP. 711, LAWS OF 1892.

AN ACT to provide for and limit the hours of service on railroads.

Section 1. No person, persons or corporation operating a line of railroad of thirty miles in length or over, in whole or in part,

within this state, shall permit or require any conductor, engineer, fireman or any trainman who has worked in any capacity for twenty-four hours, to again go on duty or perform any kind of work until he has had at least eight hours' rest.

§ 2. Ten hours' labor performed within twelve consecutive hours shall constitute a day's labor in the operation of all steam surface and elevated railroads owned and operated within this state, provided that this provision shall not affect the mileage system now in operation, or that may hereafter be placed in operation, or trips of regular scheduled trains when completed within a less number of hours, and it is further provided that the provisions of this act shall not apply to extra hours of labor performed by any conductor, engineer, fireman or trainman in cases of unavoidable accident or delay caused by such accident.

§ 3. For every hour in excess of said ten hours' labor that any conductor, engineer, fireman or any trainman of any railroad company or corporation, owned or operated within this state, who works under the direction of a superior, or at the request of such company or corporation, shall be required or permitted to work, he shall receive comparative compensation for said extra service in addition to his daily compensation.

§ 4. Any railroad company or corporation, or any officer, agent or employe of any such company or corporation, violating or permitting the violation of any of the provisions of this act, shall be guilty of a misdemeanor, and on conviction shall be punished by a fine of five hundred dollars for each offense.

See decision Court of Appeals under this act, 136 N. Y. p. 554.

CHAP. 238, LAWS OF 1893.

AN ACT in relation to filing amended affidavits to certificates of incorporation of railroad companies.

Section 1. Where it does not appear by the affidavit indorsed on or annexed to any certificate of incorporation filed under the railroad law, that the amount of capital stock required by the provisions of said law to be paid in good faith and in cash to the directors named in such certificate has been so paid, and where such payment has been made prior to the passage of this act, an affidavit of at least three of the directors named in said certificate, stating that the amount of capital stock required by said railroad law to be paid

in good faith and in cash to the directors named in the certificate has been so paid, may be filed in the office of the secretary of state, which affidavits shall be annexed to said certificate, and upon such filing, said certificate shall for all purposes have the same force and effect as if said affidavit had been annexed thereto when said certificate was filed.

CHAP. 239, LAWS OF 1893.

AN ACT in relation to the intersections and crossings of the tracks and roadbeds of certain railroads laid in, across or upon the highways, streets, avenues or roads of the cities, towns and villages of the state.

Section 1. Whenever the railroad or route of any street surface railroad corporation shall intersect and cross, or shall cross the tracks and roadbed of any railroad, operated by locomotive, steam or other power, which are laid in, across or upon the surface of any street, avenue, road or highway in any city, town or village of the state, having less than five hundred thousand inhabitants, and such street surface railroad corporation having been unable to agree with the corporation owning the tracks and roadbed so intersected or to be intersected and crossed, as to the line or lines, grade or grades, points or manner of such intersection and crossing, or upon the compensation to be made therefor, shall have applied to the court by petition to appoint commissioners to determine the same, the court shall upon application made by such street surface railroad corporation, at, or after, the time of the appointment of such commissioners, or if an answer to the petition of such street surface railroad corporation has been interposed, at any time thereafter, direct that such street surface railroad corporation be permitted to lay its tracks across and to intersect, upon the surface of the street, avenue, road or highway, the tracks and roadbed of such railroad operated by locomotive, steam, or other power, provided, such street surface railroad corporation shall at the time of obtaining such order make and file with the clerk of said court, its bond or undertaking in writing, in an amount and with surety or sureties to be approved by the court, conditioned for the full and faithful performance by such street surface railroad corporation of any and all conditions and requirements which may be imposed by said commissioners and be affirmed by the court, in determining the line or lines,

grade or grades, points or manner of such intersection and crossing and as to the amount of compensation to be paid therefor, and also conditioned to conform such crossing and intersection made by virtue of such order of the court to the requirements made by said commissioners as affirmed by the court. .

§ 2. No street surface railroad shall be allowed to lay its tracks at grade across the tracks or roadbed of any railroad operated by locomotive steam power at any point where there are three or more tracks of the steam road proposed to be crossed, which tracks have been constructed and in operation at least two years, unless the written consent of the state railroad commissioners be first obtained for such crossing at grade. But this section shall not affect the operation of section one of this act in any suit or proceeding now pending nor any renewals of said pending suit or proceeding brought for any cause.

CHAP. 543, LAWS OF 1893.

AN ACT to promote the safety of railway employes by compelling the equipment of freight cars with continuous power or air brakes, and locomotives with driving-wheel brakes.

Section 1. That from and after the first day of January, eighteen hundred and ninety-five, it shall be unlawful for any railroad company to use within the state on its line or lines any locomotive engine not equipped with a power driving wheel brake and appliances for operating the train brake system.

§ 2. That from and after the passage of this act, in addition to all freight cars now so equipped, there shall be equipped each year, with the continuous power or air brakes by every company operating a line or lines of railroad within the state, at least ten per centum of all freight cars owned or operated by such companies and used within the state, except certain cars known and designated as "coal jimmies," and that on and after the first day of January, eighteen hundred and ninety-eight, the use of the said "coal jimmies" in any form shall be unlawful within the state, except upon any railroad whose main line is less than fifteen miles in length and whose average grade exceeds two hundred feet to the mile, under a penalty of one hundred dollars for each offense, said penalty to be recovered in an action to be brought by the attorney-general in the name of the people and in the judicial dis-

strict where the principal office of the company within the state is located. This section shall not be construed to authorize the interchange of such "coal jimmies" with, and the use thereof upon, railroads of more than fifteen miles in length or whose average grade is less than two hundred feet to the mile. (*Thus amended by chap. 486, Laws of 1896.*)

§ 3. That on and after the first day of January, nineteen hundred and three, it shall be unlawful for any railroad or other company to haul or permit to be hauled or used on its line or lines within the state, any freight car not equipped with continuous power or air brakes operated from the engine.

§ 4. That within sixty days from the passage of this act every railroad or other company operating a line of railroad within the state shall file with the board of railroad commissioners at its office in Albany a verified statement of the total number of freight cars owned or operated by it, the number of such cars equipped with such continuous power or air brakes and the number unequipped, and shall thereafter annually and in the month of January, for the ensuing ten years, file with said board a verified report of the number of cars so equipped in each year and the number of cars, if any, remaining unequipped.

§ 5. That on and after January first, nineteen hundred and three, any railroad or other company using or permitting to be used on its line or lines any freight car not equipped with such continuous power or air brake, operating from the locomotive, shall be liable to a penalty of one hundred dollars for each and every violation, to be recovered in any action to be brought by the attorney-general in the name of the people in the judicial district wherein the principal office of the company within the state is located, and it shall be the duty of the board of railroad commissioners of the state to notify the attorney-general of all such violations coming to its notice.

§ 6. That the board of railroad commissioners may, from time to time, after full hearing given and for good cause shown, exempt any company from the provisions of this act, as to the equipment of ten per centum of its cars in any particular year or years, and may extend the time within which any company shall comply with the requirements of this act, not exceeding, however, five years from the first day of January, eighteen hundred and ninety-eight.

§ 7. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

CHAP. 544, LAWS OF 1893.

AN ACT to promote the safety of railway employes by compelling the equipment of freight cars with automatic couplers.

Section 1. That from and after the passage of this act, every new freight car which is to be used in this state shall be equipped with couplers of the master car builders' type, which can be coupled automatically by impact, and which may, except in cases of accident, be uncoupled without the necessity of a person going between the cars.

§ 2. That from and after the passage of this act, in addition to such new freight cars, there shall be equipped each year with such couplers, by every company operating a line or lines of railroad within the state, at least twenty per centum of all freight cars owned or operated by such companies, and used within the state, which are not so equipped, except certain cars known and designated as "coal jimmies," and that on and after the first day of January, eighteen hundred and ninety-eight, the use of said "coal jimmies" in any form shall be unlawful within this state, except upon any railroad whose main line is less than fifteen miles in length and whose average grade exceeds two hundred feet to the mile, under penalty of one hundred dollars for each offense, said penalty to be recovered in an action to be brought by the attorney-general, in the name of the people, and in the judicial district where the principal office of the company within the state is located. This section shall not be construed to authorize the interchange of such "coal jimmies" with, and the use therefor upon, railroads of more than fifteen miles in length or whose average grade is less than two hundred feet to the mile. (*Thus amended by chap. 485, Laws of 1896.*)

§ 3. That on and after the first day of January, eighteen hundred and ninety-eight, it shall be unlawful for any railroad or other company to haul, or permit to be hauled or used, on its line or lines within the state, any freight car not equipped with couplers of the master car builders' type, and coupling automatically by impact, and which can be uncoupled, except in cases of accident, without the necessity of men going between the ends of the cars.

§ 4. That within sixty days from the passage of this act, every railroad or other company operating a line of railroad within the

state, shall file with the board of railroad commissioners, at its office in Albany, a verified statement of the total number of freight cars owned or operated by it, the number of such cars equipped with the automatic couplers, and the number unequipped; and shall thereafter annually, and in the month of January, for the ensuing five years, file with said board a verified report of the number of cars so equipped in each year, and the number of cars, if any, remaining unequipped.

§ 5. That on and after January first, eighteen hundred and ninety-eight, any railroad or other company using, or permitting to be used, on its line or lines, any freight car not equipped with couplers as provided for in this act, shall be liable to a penalty of one hundred dollars for each and every violation, to be recovered in an action to be brought by the attorney-general, in the name of the people, and in the judicial district wherein the principal office of the company within the state is located; and it shall be the duty of the board of railroad commissioners of the state to notify the attorney-general of all such violations coming to its notice.

§ 6. That the board of railroad commissioners may, from time to time, after full hearing given and for good cause shown, exempt any company from the provisions of this act, as to the equipment of twenty per cent. of its cars in any particular year or years, and may extend the time within which any company shall comply with the requirements of this act, not exceeding, however, five years from the first day of January, eighteen hundred and ninety-eight.

§ 7. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

CHAP. 661, LAWS OF 1893.

AN ACT in relation to the public health, constituting chapter twenty-five of the general laws.

* * * * *

BURIAL AND BURIAL PERMITS.

§ 23. Every such local board shall prescribe sanitary regulations for the burial and removal of corpses, and shall designate the persons who shall grant permits for such burial, and permits for the transportation of any corpse which is to be carried for burial beyond the county where the death occurred. Every undertaker, sexton or other person having charge of any corpse shall procure a certificate of the death and the probable cause, duly certified by the physician

in attendance upon the deceased during his last illness, or by the coroner where an inquisition is required by law, and if no physician was in attendance, and no inquest has been held or required by law, an affidavit stating the circumstances, time and cause of death, and sworn to by some credible person known to the officer granting the permit, and there shall be no burial or removal of a corpse until such certificate or affidavit has been presented to the local board, or to the person designated by it, and thereupon a permit for such burial or removal has been obtained. When application is made for a permit to transport a corpse over any railroad, or upon any passenger steamboat within the state, the board of health, or the officers to whom such application is made, shall require such corpse to be inclosed in a hermetically sealed casket of metal or other indestructible material, if the cause of death shall have been from a contagious or infectious disease.

CHAP. 679, LAWS OF 1893.

AN ACT for the relief of street surface railroad companies.

Section 1. Any street surface railroad corporation which shall have heretofore constructed and is now operating any extension or branch of its railroad along any streets or highways or portion thereof in a city having less than fifty thousand inhabitants, or in any town adjoining such city, and which shall heretofore have obtained consent of the owners of one-half in value of the property bounded on, and the consents also of the local authorities having control of that portion of the streets, roads or highways upon which such extension or branch is constructed and is being operated to the construction and operation of the same, is hereby authorized to operate and maintain any such branch or extension, upon filing in the office of the secretary of state a certificate, signed by its board of directors, which certificate shall contain a statement of the names of the cities, towns, villages and counties, and the names or description of the streets, avenues and highways in which such extensions or branches have been constructed, the places from and to which the same have been constructed and are to be maintained and operated and the length thereof as near as may be; thereupon said extensions and branches shall be deemed and considered a part of the lines of said railway from the date of the filing thereof, and all cor-

porate action relating to the construction, maintenance and operation of such extensions or branches, or creating liens upon the same by said corporation are hereby validated and confirmed.

§ 2. Nothing in this act contained shall affect or impair any vested right or any pending litigation, nor shall any corporation which shall avail itself of the provisions of this act be deemed thereby to have waived any rights which it therefore had to maintain and operate any branch or extension named in any certificate filed by it hereunder.

CHAP. 716, LAWS OF 1893.

AN ACT to prevent monopolies in articles of general necessity.

Section 1. Every contract or combination in the form of trust or otherwise, made after the passage of this act, whereby competition in the state of New York in the supply or the price of any article or commodity of common use in said state for the support of life and health may be restrained or prevented, for the purpose of advancing prices, is hereby declared illegal.

§ 2. Every person who shall, after the passage of this act, make any such contract, or engage in any such combination, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding five thousand dollars, or by imprisonment not longer than one year, or by both such fine and imprisonment.

§ 3. Every corporation, or officer thereof, that shall make any contract, arrangement or agreement, or shall enter into any combination or conspiracy for the purpose of restraining or preventing competition in the supply or price of any article or commodity in common use in this state, or with intent to restrict or restrain trade or commerce in this state, or that shall attempt or actually conduct any business in this state pursuant to any such contract, arrangement, agreement or combination, wherever the same may be made, or shall in any manner in this state engage or aid in carrying out and executing the agreements contained in any such contract or arrangement, wherever the same may be made, shall be deemed guilty of a misdemeanor. The attorney-general may, in addition to the power now conferred by law, bring an action in the name and in behalf of the people of the state against one or more trustees, directors, managers, or other officers of a corporation, or against any corporation, foreign or domestic, to restrain

them or either of them from carrying out in this state any such contract, combination or business in this state, where such contract, combination or business is threatened, or there is good reason to apprehend that the same may be made. (*This section added by chap. 267, Laws of 1896.*)

CHAP. 717, LAWS OF 1893.

AN ACT to amend chapter three hundred and eighty-eight of the laws of eighteen hundred and ninety, entitled "An act to provide for the weekly payment of wages by corporations."

Section 1. Every manufacturing, mining, quarrying, lumbering, mercantile, railroad other than a steam surface railroad, steamboat, telegraph, telephone and municipal corporation or joint-stock company, and every incorporated or joint-stock express or water company, shall pay once a week to each of its employes the wages earned by such employe to within six days of the date of such payment unless any such employe shall be absent from his regular place of labor at the usual time of payment, in which case payment shall be made at any reasonable time thereafter upon demand. Every person or corporation operating a steam surface railroad shall on or before the twentieth of each month pay the employes thereof the wages earned by them during the preceding calendar month, unless any such employe shall be absent from his regular place of labor at the usual time of payment, in which case payment shall be made at any reasonable time thereafter upon demand. Whenever any such joint-stock company or corporation shall contract or lease its plant, works or business, to an agent or other person to conduct the same, and to turn over the product or receipts thereof to such joint-stock company or corporation, it shall be and it is hereby made a condition of such contract or lease that the agent or person so contracting or leasing the plant, works or business of such corporation or joint-stock company shall pay in cash weekly or monthly, or if a steam surface railway company, the wages, earned by persons engaged by him to work in and about such plant, works or business, the same as if such person were employed directly by such corporations or joint-stock company. (*Thus amended by chap. 791, Laws of 1895.*)

§ 2. Any joint-stock company or corporation violating any of the provisions of this act shall be liable to a penalty not exceeding fifty dollars and not less than ten dollars for each violation, to be paid to

the people of the state, and which may be recovered in a civil action; provided notice in writing shall have been given such company or corporation that such an action will be brought if such company or corporation, after service of such notice, shall at any time fail to comply with the provisions of this act. The factory inspector of this state, his assistant or deputies, may bring an action in the name of the people of the state as plaintiffs against any joint-stock company or corporation which neglects to comply with the provisions of this act within two weeks, after having been notified in writing by such inspector, assistant or deputies, that such action will be brought. On the trial of such action such joint-stock company or corporation shall not be allowed to set up any defense for a failure to pay weekly, or monthly, if a steam surface railway company, any employe engaged in its business, the wages earned by such employe to within six days of the date of such payment, or for the preceding calendar month, if a steam surface railway company, other than a valid assignment of such wages or a valid setoff against the same, or in the absence of such employe from his regular place of labor at the time of payment, or an actual tender to such employe at the time of payment of the wages so earned by him, or a breach of contract by such employe, or a denial of the employment. No assignment of future wages, payable weekly or monthly, if a steam surface railway company, under the provisions of this act shall be valid if made to the corporation or joint-stock company from which such wages are to become due, or to any person on behalf of such joint-stock company or corporation, or if made or procured to be made to any person for the purpose of relieving such joint-stock company or corporation from the obligation to pay weekly or monthly, if a steam surface railway company, under the provisions of this act. Charges for groceries, provisions or clothing shall not be made a valid offset for wages, nor shall any such corporation or joint-stock company require as a condition of employment any agreement from any employe to accept wages at other periods than as provided in section one of this act. Any person, acting as the agent or lessee of the corporation or joint-stock company, and operating its plant, works or business, and disposing of the products thereof chiefly or solely to such corporation or joint-stock company, who shall violate the provisions of this act, shall be guilty of a misdemeanor, and on conviction thereof shall be fined not less than ten dollars or more than fifty dollars. (*Thus amended by chap. 791, Laws of 1895.*)

§ 3. The provisions of sections two hundred and sixty-three and three hundred and eighty-four of the code of civil procedure shall apply to and govern any proceedings brought to enforce the provisions of this act, as against joint-stock companies or corporations, and it is hereby made the duty of the attorney-general of this state to appear in behalf of such proceedings brought hereunder by the factory inspectors of this state, their assistants or deputies.

CHAP. 338, LAWS OF 1894.

AN ACT relating to canals, constituting chapter thirteen of the general laws.

* * * * *

POWERS WITH REFERENCE TO RAILROAD NEAR THE CANALS.

§ 25. The superintendent of public works shall have a general supervisory power over so much of any railroad as passes over any canal or feeder belonging to the state or approaches within ten rods thereof, so far as may be necessary to preserve the free and perfect use of such canals or feeders, or for making any repairs, improvements or alterations thereupon. No railroad corporation shall construct its railroad over or at any place within ten rods of any canal or feeder belonging to the state, unless it submits to the superintendent of public works a map, plan and profile of such canal or feeder and of the route designated for its railroad, exhibiting distinctly and accurately the relation of each to the other at all the places within the limits of ten rods thereof, and obtain the written permission of the superintendent of public works and of the canal board for the construction of such railroad, with such conditions, directions and instructions as, in his judgment, the free and perfect use of any such canal or feeder may require.

* * * * *

*CHAP. 743, LAWS OF 1894.

AN ACT to facilitate travel upon elevated railroads in the city of New York.

Section 1. Any passenger upon the Manhattan elevated railway who has paid the fare required for passage from any point on said

*While this is not a general act it is considered of enough importance to be inserted here.

railway east of Broadway, between the Battery and One Hundred and Twenty-ninth street, not exceeding five cents, shall be entitled to a continuous passage, without change of cars, on the suburban rapid transit railway or on any railway owned or operated by the Manhattan railway company, within the city of New York, in connection with said Manhattan elevated railway from One Hundred and Twenty-ninth street, or other termini of the lines of said Manhattan elevated railway south of the Harlem river, to any station on the route of said suburban rapid transit railroad, or such other elevated railroad as may be operated by the Manhattan railway company north of the Harlem river, without the payment of additional fare; and any passenger on the suburban rapid transit railroad, or any elevated railway owned or operated by the Manhattan railway company in connection with the Manhattan elevated railroad, within the city of New York, running southward to One Hundred and Twenty-ninth street, or other termini of the Manhattan railroad, who has paid the fare required on said suburban rapid transit railroad to One Hundred and Twenty-ninth street in the city of New York, not exceeding five cents, shall be entitled to a continuous passage, without change of cars, over the Manhattan elevated railway to any station on its route east of Broadway, between One Hundred and Twenty-ninth street and the Battery, without the payment of additional fare.

CHAP. 240, LAWS OF 1895.

AN ACT to provide for licensing foreign stock corporations.

Section 1. Every foreign corporation except banking, fire, marine, casualty and life insurance companies, and corporations wholly engaged in carrying on manufactures in this state, co-operative fraternal insurance companies, endowment orders and building and loan associations, now authorized to do business in this state, under the provisions of chapter six hundred and eighty-seven of the laws of eighteen hundred and ninety-two, entitled "An act to amend the general corporation law," shall pay to the state treasurer for the use of the state, a license fee of one-eighth of one per centum for the privilege of exercising its corporate franchises or carrying on its business in such corporate or organized capacity in this state, on the first day of December, eighteen hundred and ninety-five, to be computed upon the basis of the amount of capital stock employed

by it within this state during the year preceding that date, and every such foreign corporation which shall hereafter be authorized to do business in this state shall pay a like license fee for the privilege, to be computed upon the basis of the capital stock employed by it within this state for its business during the first year of carrying on its business in this state. The amount of capital upon which such taxes shall be paid shall be fixed by the comptroller, who shall have the same authority to examine the books and records in this state of such foreign corporations, and the employes thereof, and the same power to issue his warrant for the collection of such taxes, as he now has with regard to domestic corporations. Every such foreign corporation hereafter authorized to do business in this state shall, before receiving the certificate of authority provided by law, pay to the state treasurer, for the use of the state, the tax hereinbefore provided for. No action shall be maintained or recovery had in any of the courts of this state by such foreign corporation doing business in this state, without obtaining the certificate of authority prescribed by law, and a receipt for the license fee hereby imposed.

See section 181 Tax Law, *post*.

CHAP. 395, LAWS OF 1895.

AN ACT to amend the game law and to repeal chapter three hundred and thirty-two of the laws of eighteen hundred and ninety-three, entitled "An act in relation to the forest preserve and Adirondack park, constituting articles six and seven of chapter forty-three of the general laws."

* * * * *

DUTIES OF RAILROAD COMPANIES.

§ 275. Every railroad company whose road passes through waste or forest lands or lands liable to be overrun by fires within the state, shall twice in each year cut and remove from its right of way all grass, brush or other inflammable materials, but under proper care and at proper times when fire, if set, can be kept under control. All locomotives which run through forest lands shall be provided with approved and sufficient arrangements for preventing the escape of fires from their furnaces or ashpans and with netting of steel or iron wire upon their smoke stacks to prevent the escape of sparks of fire, and every engineer and fireman employed upon a locomotive shall see that the appliances to prevent the escape of fire are in use and

applied as far as it can be reasonably and practically done. No railroad company shall permit its employes to deposit fire coals or ashes upon their track in the immediate vicinity of wood lands, or lands liable to be overrun by fires, and where any engineers, conductors or trainmen discover that fences or other material or substances along the right of way upon wood lands adjacent to the railroad are burning, or in danger from fire, they shall report the same at their next stopping place and the person in charge of such station shall take prompt measures to extinguish such fires and shall immediately notify the nearest firewarden or fish and game protector and forester. In seasons of drought and especially during the first dry time in the spring after the snows have gone and before vegetation has revived, railroad companies shall employ a sufficient number of trackmen for the prompt extinguishment of fires; and where a forest fire is raging near the line of their road, they shall concentrate such help and adopt such measures as shall most effectually arrest its progress. If any railroad company or any of its employes violate any provision of this section the company shall forfeit to the people of the state the sum of one hundred dollars for every such violation.

* * * * *

CHAP. 417, LAWS OF 1895.

AN ACT to regulate the exercise of their franchises by certain public corporations, by requiring them to afford facilities for the transaction of the public business, to certain public officers and employes.

Section 1. The mayor of each city of this state and the president of each incorporated village may issue, under the seal of his office, to each policeman and fireman appointed by the duly constituted authorities of such city or village, a certificate of the appointment and qualification of such policeman or fireman as such, and specifying the duration of his term of office; and it shall thereupon be the duty of every street surface and elevated railroad company carrying on business within such city or village, to transport every such policeman or fireman free of charge while he is traveling in the course of the performance of the duties of his office. Every telegraph or telephone company engaged in business within such city or village shall afford to such policeman or fireman the use of its telegraph lines or telephones for the purpose of making and receiving

reports and communications in the course of the performance of his official duties.

§ 2. Every policeman or fireman who shall permit any other person to use the certificate issued to him as provided by this act, or to present or make use of the same, except while acting in the course of the performance of his official duties, or who shall use such certificate after the expiration of his term of office or his resignation or removal therefrom, shall be deemed guilty of a misdemeanor.

§ 3. This act shall take effect immediately.

CHAP. 700, LAWS OF 1895.

AN ACT to extend the time for the commencement of construction or completion of railroads other than street surface railroads.

Section 1. The time or times prescribed for the commencement of the construction, or the completion of its railroads or any portion thereof, by any railroad company which has already acquired at least one-third of its right of way, or begun the construction of any portion of its railroads, is hereby extended five years from the first day of January, eighteen hundred and ninety-five.

§ 2. This act shall take effect immediately.

CHAP. 974, LAWS OF 1895.

AN ACT for the protection, preservation and propagation of birds, fish and wild animals in the state of New York and the different counties thereof.

Section 1. Article three of chapter four hundred and eighty-eight of the laws of eighteen hundred and ninety-two is hereby amended to read as follows:

* * * * *

TRANSPORTATION.

§ 46. Deer or venison killed in this state shall not be transported to any point within or without the state from or through any of the counties thereof or possessed for that purpose, except as follows: One carcass or a part thereof may be transported from the county where killed when accompanied by the owner. No individual shall transport or accompany more than two deer in any one year under the above provision. The possession of deer or venison by a common carrier, or by any person in its employ then actually engaged

in the business of such common carrier, unaccompanied by the owner, shall constitute a violation of this section by such common carrier. This section does not apply to the head and feet or skin of deer severed from the body. Whoever shall violate or attempt to violate the provisions of this section shall be deemed guilty of misdemeanor, and in addition thereto shall be liable to a penalty of one hundred dollars for each wild deer or part thereof, had in possession in violation of this section.

§ 2. Article four of chapter four hundred and eighty-eight of the laws of eighteen hundred and ninety-two is hereby amended to read as follows:

* * * * *

WOODCOCK, QUAIL AND GROUSE; WHEN NOT TO BE TRANSPORTED.

§ 76. Woodcock, ruffed grouse, commonly known as partridge, or any member of the grouse family, or quail killed in this state, shall not be transported to any point within or without this state, from or through any of the counties thereof, or possessed for that purpose, except that such birds may be transported from the county where killed, when accompanied by the owner thereof. Possession of the birds named by a common carrier, or by any person in its employ then actually engaged in the business of such common carrier, unaccompanied by the owner, shall constitute a violation of this section by such common carrier. Whoever shall violate or attempt to violate the provisions of this section shall be deemed guilty of misdemeanor, and in addition thereto shall be liable to a penalty of twenty-five dollars for each bird killed, trapped, snared or possessed contrary to the provisions of this section.

§ 3. Article five of chapter four hundred and eighty-eight of the laws of eighteen hundred and ninety-two is hereby amended to read as follows:

* * * * *

CERTAIN FISH NOT TO BE TRANSPORTED.

§ 109. Trout of any kind, salmon trout or land-locked salmon, caught in any of the inland waters of this state, shall not be transported to any point within or without the state from or through any of the counties thereof, or possessed for that purpose, except when accompanied by the owner. Possession thereof by a common carrier or by any person in its employ then actually engaged in the

business of such common carrier unaccompanied by the owner shall constitute a violation of this section by such common carrier. Whoever shall violate or attempt to violate the provisions of this section shall be deemed guilty of misdemeanor and in addition thereto shall be liable to a penalty of twenty-five dollars for each violation and ten dollars for each fish so caught or possessed.

§ 4. Article six of chapter four hundred and eighty-eight of the laws of eighteen hundred and ninety-two is hereby amended to read as follows:

* * * * *

EXCEPTIONS AS TO SAINT LAWRENCE AND WARREN COUNTIES.

§ 140. It shall be lawful to fish at any time for perch, suckers, bullheads and pickerel with nets and fykes, and to spear such fish through the ice in any of the streams, ponds or lakes in Warren county, excepting that in Schroon lake, Long pond or Glen lake and Lake George the use of nets, spears and fykes is forbidden. No fish of any kind, except suckers and billfish or garpikes, shall be caught in Black lake, in Saint Lawrence county, or in the waters tributary to said lake, or in the Oswegatchie river, from the boundaries of the city of Ogdensburgh to the village of Heuvelton, except from the first day of May to the fifteenth day of November, both inclusive. Nothing herein contained shall be construed as prohibiting the catching of fish by angling, in the waters of Black lake, in Saint Lawrence county, at any time, nor the use of spears in catching fish in said Black lake during the months of September, October and November. No transportation company in Saint Lawrence or Jefferson counties shall transport any fish caught contrary to the provisions of this section, and when fish, at any time, are offered such company for transportation, they may at their option refuse to accept the same until satisfactory proof is furnished that they were not caught in violation of law. Possession thereof by a common carrier, or by any person in its employ then actually engaged in the business of such common carrier, unaccompanied by the owner, shall constitute a violation of this section by such common carrier. Whoever shall violate or attempt to violate the provisions of this section shall be guilty of misdemeanor and in addition thereto shall be liable to a penalty of one hundred dollars for each violation thereof.

§ 6. Article eight of chapter four hundred and eighty-eight of the laws of eighteen hundred and ninety-two is hereby amended to read as follows:

* * * * *

TAKING OYSTERS FROM HUDSON RIVER FOR REPLANTING.

§ 187. Oysters shall not be taken from the Hudson river north of the county of New York at any time for the purpose of conveying them to another state to have them replanted. Whoever shall violate or attempt to violate the provisions of this section shall be guilty of misdemeanor and in addition thereto shall be liable to a penalty of twenty-five dollars for each violation thereof.

§ 8. Article ten of chapter four hundred and eighty-eight of the laws of eighteen hundred and ninety-two is hereby amended to read as follows:

* * * * *

ACTIONS, HOW ENTITLED.

§ 230. All penalties imposed by this act may be sued for and recovered in the name of "The People of the State of New York."

* * * * *

§ 10. Article twelve of chapter four hundred and eighty-eight of the laws of eighteen hundred and ninety-two is hereby made article fourteen, and is amended to read as follows:

* * * * *

DEFINITIONS.

§ 301. Words and phrases under this act, and in proceedings pursuant thereto, shall, unless inconsistent with the context, mean or include as follows:

1. "Persons" shall include persons, copartnerships, joint-stock companies and corporations, and when used with reference to commission of acts which are herein forbidden, shall include persons particeps criminis in the acts, and the officers, agents and directors or trustees and similar controlling body of corporations.

2. Words importing masculine gender may apply to copartnerships, females, joint-stock companies and corporations.

3. Words importing the plural number may import the singular number.

4. Words importing the singular number may extend to and be applied to several persons or things.

5. "Angling" is defined to mean taking fish with hook and line and by rod held in hands, and does not include set lines. In fishing from boats, rods and lines not exceeding two in number may be used by any one person.

6. "Exclusive right to shoot, hunt or fish" is defined to mean the right of any person owning or having the right to the possession of the premises, or of any person leasing or reserving the exclusive right to shoot, hunt or fish thereon from the owner.

7. "Commissions," "commissioners" or "board of commissioners," as used in this chapter, shall be construed to mean the commissioners of fisheries, game and forest.

8. "Article," when standing alone in this act, shall be construed to refer to one of the articles hereof.

9. "Close season" is that period of time during which an act is prohibited.

10. Inclosed lands is defined to mean lands the outlines or boundaries of which are marked by water, by a wire, ditch, hedge or fence, road or highway, or partially by one or more of said means, or any visible inclosure or distinctive boundary which indicates a separation from the surrounding or contiguous territory of whatever nature.

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CHAP. 112, LAWS OF 1896.

AN ACT in relation to the traffic in liquors, and for the taxation and regulation of the same, and to provide for local option, constituting chapter twenty-nine of the general laws.

CHAPTER XXIX OF THE GENERAL LAWS.

The Liquor Tax Law.

Note.—Many sections of the Liquor Tax Law apply to railroad companies which receive liquor tax certificates. Having in mind the purposes sought to be fulfilled by this compilation of railroad laws it is thought best to publish only subdivision 4 of section 11 and section 41.

* * * * *

EXCISE TAXES UPON THE BUSINESS OF TRAFFICKING IN LIQUORS.

§ 11. Subdivision 4. Upon the business of trafficking in liquors upon any car, steamboat or vessel within this state, to be drunk on such

car or on any car connected therewith, or on such steamboat or vessel, or upon any boat or barge attached thereto, or connected therewith, there is assessed an excise tax, to be paid by every corporation, association, copartnership or person engaged in such traffic and for each car, steamboat or vessel upon which traffic is carried on, the sum of two hundred dollars.

* * * * *

EMPLOYMENT OF PERSONS ADDICTED TO INTOXICATION BY COMMON CARRIERS.

§ 41. Any person or officer of an association or corporation engaged in the business of conveying passengers or property for hire, who shall employ in the conduct of such business, as an engineer, fireman, conductor, switch-tender, train dispatcher, telegrapher, commander, pilot, mate, fireman or in other like capacity, so that by his neglect of duty the safety and security of life, person or property so conveyed might be imperiled, any person who habitually indulges in the intemperate use of liquors, after notice that such person has been intoxicated, while in the active service of such person, association or corporation, shall be guilty of a misdemeanor.

See section 420 Penal Code, *post*; also section 42 Railroad Law, *ante*.

* * * * *

CHAP. 376, LAWS OF 1896.

AN ACT relating to domestic commerce law, constituting chapter thirty-four of the general laws.

* * * * *

STANDARD AND STORAGE OF ILLUMINATING OILS.

§ 24. * * * * *

No such oil or fluid which will ignite at a temperature below three hundred degrees Fahrenheit shall be burned or be carried as freight in any passenger or baggage car or passenger boat moved by steam or electric power in this state, or in any stage or street car, however propelled, except that coal oil, petroleum and its products may be carried, when securely packed in barrels or metallic packages, in passenger boats propelled by steam when there are no other public means of transportation. * * *

* * * shall adopt such measures to enforce the provisions of this

section * * * as to them may seem necessary. * * * This section shall not apply to the city of New York and shall not supersede but shall be in addition to the ordinances or regulations of any city or village, made pursuant to law, for the inspection or control of combustible materials therein.

* * * * *

UNLAWFUL DETENTION OF MILK CANS.

§ 29. * * * * *

The several superintendents of the railroad companies and the branches and connections thereof and steamboat lines operating their roads or lines, or any portion thereof in this state, shall have power to collect, gather and take into possession from any person or whenever found thereupon, any cans belonging to any such owner, dealer or shipper, and return the same to such owner, dealer or shipper, and may appoint an agent for that purpose, and such superintendent and such agent appointed by him shall have the same power and authority under this section as an agent of such owner, dealer or shipper.

The certificate of such superintendent appointing such agent, duly acknowledged, shall be presumptive evidence of the appointment and authority of such agent.

Any person authorized by this section to seize and take into his possession any such cans may, in case of resistance, call to his aid any police officer or constable of the town, village or city, who shall, when so called on, assist him in seizing or taking possession of such cans.

See section 56 Criminal Code, and section 427a Penal Code, *post*.

CHAP. 388, LAWS OF 1896.

AN ACT to provide for a better system of lighting passenger cars on elevated railroads in cities of over twelve hundred thousand inhabitants.

Section 1. Within one year from the passage of this act every corporation operating an elevated railroad in any city of over twelve hundred thousand inhabitants in this state computed according to the last census, shall equip two-fifths of all cars used for the transportation of passengers with the most approved system of lighting pas-

senger cars now in use upon railroads, either by electricity or gas of not less than eighteen candle power, and shall likewise equip an additional two-fifths of all such cars within two years from the passage of this act, and shall likewise equip all remaining such cars within three years from the passage of this act, and every such corporation is hereby prohibited from using after one year from the passage of this act, kerosene or coal oils as a means of lighting more than three-fifths in number of all such cars, and after two years from the passage of this act, no more than one-fifth in number of all such cars, and after three years from the passage of this act such corporation is prohibited from using kerosene or coal oils as a means of lighting any of its passenger cars.

§ 2. Any violation of the provisions of this act shall render any such corporation liable to pay a fine or penalty of fifty dollars for each and every day, for each and every passenger car run over its railroad which is not equipped and lighted as provided in the first section of this act; and such fine may be recovered by any passenger on such railroad who may sue therefor; and any violation of the provisions of this act on the part of any such railroad corporation shall also be a misdemeanor.

CHAP. 559, LAWS OF 1896.

AN ACT to amend the code of civil procedure.

Section 1. Section one hundred and ninety-one of the code of civil procedure is hereby amended so as to read as follows:

§ 191. The jurisdiction conferred by the last section, is subject to the following limitations, exceptions and conditions:

1. No appeal shall be taken to said court, in any civil action or proceeding commenced in any court other than the supreme court, county court or a surrogate's court, unless the appellate division of the supreme court allows the appeal by an order made at the term which rendered the determination, or at the next term after judgment is entered thereupon, and shall certify that in its opinion a question of law is involved which ought to be reviewed by the court of appeals.

2. No appeal shall be taken to said court from a judgment of affirmance hereafter rendered in an action to recover damages for a personal injury, or to recover damages for injuries resulting in death, or in an action to set aside a judgment, sale, transfer, conveyance, assignment or written instrument as in fraud of the rights of

creditors, when the decision of the appellate division of the supreme court is unanimous, unless such appellate division shall certify that in its opinion a question of law is involved which ought to be reviewed by the court of appeals, or unless in case of its refusal to so certify, an appeal is allowed by a judge of the court of appeals.

3. The jurisdiction of the court is limited to the review of questions of law.

4. No unanimous decision of the appellate division of the supreme court that there is evidence supporting or tending to sustain a finding of fact or a verdict not directed by the court, shall be reviewed by the court of appeals.

CHAP. 649, LAWS OF 1896.

AN ACT to validate and confirm certain consents heretofore given by the local authorities of cities of the first and second class in the construction, operation and maintenance of street surface railroads therein.

Section 1. All consents given since December first, eighteen hundred and ninety-five, and prior to February first, eighteen hundred and ninety-six, by the local authorities of any city of the first or second class, to the construction, operation and maintenance of a street surface railroad in any such city by a railroad corporation which has not complied with the provisions of section fifty-nine of the railroad law or has failed to obtain the certificate therein provided for, are hereby validated and confirmed, and any such corporation may construct, operate and maintain a street surface railroad over, along and upon the streets, avenues, highways and public places described in such consent upon obtaining the consent of the owners of property bounded on such streets, avenues, highways or public places as provided by law.

CHAP. 835, LAWS OF 1896.

AN ACT to amend chapter ten hundred and twenty-seven of the laws of eighteen hundred and ninety-five, entitled "An act in relation to the issue of mileage books by railroad corporations."

Section 1. Section one of chapter ten hundred and twenty-seven of the laws of eighteen hundred and ninety-five is hereby amended so as to read as follows:

§ 1. Every railroad corporation operating a railroad in this state, the line or lines of which are more than one hundred miles in length,

and which is authorized by law to charge a maximum fare of more than two cents per mile, and not more than three cents per mile, and which does charge a maximum fare of more than two cents per mile, shall issue mileage books having one thousand coupons attached thereto, entitling the holder thereof, upon complying with the conditions hereof, to travel one thousand miles on the line or lines of such railroad, for which the corporation may charge a sum not to exceed two cents per mile. Such mileage books shall be kept for sale by such corporation at every ticket office of such corporation in an incorporated village or city, and shall be issued immediately upon application therefor. The holder of any such mileage book shall be entitled, upon surrendering, at any ticket office on the line or lines of such railroad, coupons equal in number to the number of miles which he or any member of his family or firm, or a salesman of such firm, wishes to travel on the line or lines of such railroad, to a mileage exchange ticket therefor. Such mileage exchange ticket shall entitle the holder thereof without producing the mileage book upon which such exchange ticket was issued, to the same rights and privileges in respect to the transportation of person and property to which the highest class ticket issued by such corporation would entitle him. Such mileage books shall be good until all coupons attached thereto have been used. Any railroad corporation which shall refuse to issue a mileage book as provided by this section, or, in violation hereof, to accept such mileage book for transportation, shall forfeit fifty dollars, to be recovered by the party to which such refusal is made; but no action can be maintained therefor unless commenced within one year after the cause of action accrues.

CHAP. 962, LAWS OF 1896.

AN ACT to amend section nineteen hundred and forty-eight of the code of civil procedure, by adding at the end thereof a new subdivision, relating to actions against foreign corporations.

Section 1. Section nineteen hundred and forty-eight of the code of civil procedure is hereby amended by adding a new subdivision thereto, as subdivision four, as follows:

4. Against a foreign corporation which exercises within the state any corporate rights, privileges or franchises, not granted to it by the law of the state; or which within the state, has violated any provision of law, or, contrary to law, has done or omitted any act, or has exercised a privilege or franchise, not conferred upon it by the

law of this state, where, in a similar case, a domestic corporation would, in accordance with section seventeen hundred and ninety-eight of this act, be liable to an action to vacate its charter and to annul its existence; or which exercises within the state any corporate rights, privileges or franchises in a manner contrary to the public policy of the state.

CHAP. 977, LAWS OF 1896.

AN ACT to amend chapter four hundred and one of the laws of eighteen hundred and eighty-seven, entitled "An act in relation to milk cans," as amended by chapter twenty-five of the laws of eighteen hundred and ninety.

Note.— Other provisions than those printed here of this act may apply to railroad companies.

Section 1. Chapter four hundred and one of the laws of eighteen hundred and eighty-seven, entitled "An act in relation to milk cans," as amended by chapter twenty-five of the laws of eighteen hundred and ninety, is hereby amended so as to read as follows:

§ 10. The owner or owners, dealer or dealers, shipper or shippers, and the several superintendents of the various railroad companies and the branches and connections thereof, and the steamboat lines operating their lines, or any portion thereof, in the state of New York, or elsewhere, shall have power to collect, gather and take into his possession, from any person or persons within the state of New York, or wherever found in this state, any such milk or cream can or cans, and shall have power to appoint an agent therefor.

§ 11. The certificate of any superintendent of any of the railroad companies or steamboat lines mentioned in this act, or any person or persons authorized thereto, in this act, appointing an agent to collect such can or cans, duly acknowledged before a notary public, shall be presumptive evidence of the authority of such agent.

§ 12. Such agent shall have full power to collect, gather and take into his possession from any person or persons or corporation, or wherever found, any such milk or cream can or cans, and in case of resistance may call to his aid the assistance of any constable or police officer who shall assist him to take possession of such can or cans.

§ 13. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

See chapter 376 Laws of 1896, *ante*.

Tax Laws Relating to Railroads.

CHAP. 675, LAWS OF 1881.

AN ACT to facilitate the payment of school taxes by railroad companies.

DUTY OF SCHOOL COLLECTOR TO DELIVER TO COUNTY TREASURER CERTAIN STATEMENT; DUTY OF COUNTY TREASURER IN THE PREMISES.

Section 1. It shall be the duty of the school collector in each school district in this state, except in the counties of New York, Kings, and Cattaraugus, within five days after the receipt by such collector of any and every tax or assessment roll of his district, to prepare and deliver to the county treasurer of the county in which such district, or the greater part thereof, is situated, a statement showing the name of each railroad company appearing in said roll, the assessment against each of said companies for real and personal property respectively, and the tax against each of said companies. It shall thereupon be the duty of such county treasurer, immediately after the receipt by him of such statement from such school collector, to notify the ticket agent of any such railroad company assessed for taxes at the station nearest to the office of such county treasurer, personally or by mail, of the fact that such statement has been filed with him by such collector, at the same time specifying the amount of tax to be paid by such railroad company. (*Thus amended, Laws of 1885, chap. 533.*)

TIME IN WHICH TAX MAY BE PAID WITH ONE PER CENT. FEES.

§ 2. Any railroad company heretofore organized, or which may hereafter be organized, under the laws of this state, may, within thirty days after the receipt of such statement by such county treasurer, pay the amount of tax so levied or assessed against it in such district and in such statement mentioned and contained, with one per centum fees thereon, to such county treasurer, who is hereby authorized and directed to receive such amount and to give proper receipt therefor.

IF TAX NOT PAID WITHIN THIRTY DAYS, DUTY OF COLLECTOR TO COLLECT; LIMITATION.

§ 3. In case any railroad company shall fail to pay such tax within said thirty days, it shall be the duty of such county treasurer to notify

the collector of the school district in which such delinquent railroad company is assessed, of its failure to pay said tax, and upon receipt of such notice it shall be the duty of such collector to collect such unpaid tax in the manner now provided by law, together with five per centum fees thereon; but no school collector shall collect by distress and sale any tax levied or assessed in his district upon the property of any railroad company, until the receipt by him of such notice from the county treasurer.

TAX TO BE PLACED TO CREDIT OF SCHOOL DISTRICT, PAID TO COLLECTOR ON DEMAND, FEES TO GO TO COLLECTOR ON DEMAND.

§ 4. The several amounts of tax received by any county treasurer in this state under the provisions of this act, of and from railroad companies shall be by such county treasurer placed to the credit of the school district for or on account of which the same was levied or assessed, and on demand paid over to the school collector thereof, and the one per centum fees received therewith shall be placed to the credit of, and on demand paid to, the school collector of such school district.

TAX MAY BE PAID TO COLLECTOR DIRECT.

§ 5. Nothing in this act contained shall be construed to hinder, prevent or prohibit any railroad company from paying its school tax to the school collector direct, as now provided by law.

CHAP. 686, LAWS OF 1892.

AN ACT in relation to counties, constituting chapter eighteen of the general laws.

* * * * *

STATEMENT OF RAILROAD, TELEGRAPH, TELEPHONE AND ELECTRIC-LIGHT TAXES.

Section 53. The clerk shall, within five days after the making out, or issuing of the annual tax-warrant by the board of supervisors, prepare and deliver to the county treasurer of his county, a statement showing the title of all railroad corporations and telegraph, telephone and electric-light lines in such county, as appear on the last assessment-roll of the towns or cities therein, the valuation of the property, real and personal, of such corporation and line in each town or city, and the amount of tax assessed or levied on such valuation in each town or city in his county.

CHAP. 908, LAWS OF 1896.

AN ACT in relation to taxation, constituting chapter twenty-four of the general laws.

CHAPTER XXIV OF THE GENERAL LAWS.**SHORT TITLE.**

Section 1. This chapter shall be known as the tax law.

DEFINITIONS.

§ 2. 1. "Tax district" as used in this chapter, means a political subdivision of the state having a board of assessors authorized to assess property therein for state and county taxes.

2. "County treasurer" includes any officer performing the duties devolving upon such office under whatever name.

3. The terms "land," "real estate" and "real property," as used in this chapter, include the land itself above and under water, all buildings and other articles and structures, substructures and superstructures, erected upon, under or above, or affixed to the same; all wharves and piers, including the value of the right to collect wharfage, crantage or dockage thereon; all bridges, all telegraph lines, wires, poles and appurtenances; all supports and inclosures for electrical conductors and other appurtenances upon, above and under ground; all surface, underground or elevated railroads; all railroad structures, substructures and superstructures, tracks and the iron thereon; branches, switches and other fixtures permitted or authorized to be made, laid or placed in, upon, above or under any public or private road, street or grounds; all mains, pipes and tanks laid or placed in, upon, above or under any public or private street or place for conducting steam, heat, water, oil, electricity, or any property, substance or product capable of transportation or conveyance therein or that is protected thereby; all trees and underwood growing upon land, and all mines, minerals, quarries and fossils in and under the same, except mines belonging to the state.

4. The terms "personal estate," and "personal property," as used in this chapter, include chattels, money, things in action, debts due from solvent debtors, whether on account, contract, note, bond or mortgage; debts and obligations for the payment of money due or owing to persons residing within this state, however secured or wherever such securities shall be held; debts due by inhabitants of this state to persons not residing within the United States for the

purchase of any real estate; public stocks, stocks in moneyed corporations, and such portion of the capital of incorporated companies, liable to taxation on their capital, as shall not be invested in real estate.

PROPERTY LIABLE TO TAXATION.

§ 3. All real property within this state, and all personal property situated or owned within this state, is taxable unless exempt from taxation by law.

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§ 4. Subdivision 16. The owner or holder of stock in an incorporated company liable to taxation on its capital, shall not be taxed as an individual for such stock.

* * * * *

PLACE OF TAXATION OF PROPERTY OF CORPORATIONS.

§ 11. The real estate of all incorporated companies liable to taxation, shall be assessed in the tax district in which the same shall lie, in the same manner as the real estate of individuals. All the personal estate of every incorporated company liable to taxation on its capital shall be assessed in the tax district where the principal office or place for transacting the financial concerns of the company shall be, or if such company have no principal office, or place for transacting its financial concerns, then in the tax district where the operations of such company shall be carried on. In the case of toll bridges, the company owning such bridge shall be assessed in the tax district in which the tolls are collected; and where the tolls of any bridge, turnpike, or canal company are collected in several tax districts, the company shall be assessed in the tax district in which the treasurer or other officer authorized to pay the last preceding dividend resides.

TAXATION OF CORPORATE STOCK.

§ 12. The capital stock of every company liable to taxation, except such part of it as shall have been excepted in the assessment-roll or shall be exempt by law, together with its surplus profits or reserve funds exceeding ten per centum of its capital, after deducting the assessed value of its real estate, and all shares of stock in other corporations actually owned by such company which are taxable upon their capital stock under the laws of this state, shall be assessed at its actual value.

* * * * *

REPORTS OF CORPORATIONS.

§ 27. The president or other proper officer of every moneyed or stock corporation deriving an income or profit from its capital or otherwise shall, on or before June fifteenth, deliver to one of the assessors of the tax district in which the company is liable to be taxed and, if such tax district is in a county embracing a portion of the forest preserve, to the comptroller of the state, a written statement specifying:

1. The real property, if any, owned by such company, the tax district in which the same is situated and, unless a railroad corporation, the sums actually paid therefor.

2. The capital stock actually paid in and secured to be paid in excepting therefrom the sums paid for real property and the amount of such capital stock held by the state and by any incorporated literary or charitable institution, and

3. The tax district in which the principal office of the company is situated or in case it has no principal office, the tax district in which its operations are carried on.

Such statement shall be verified by the officer making the same to the effect that it is in all respects just and true. If such statement is not made within twenty days after the fifteenth day of June, or is insufficient, evasive or defective, the assessors may compel the corporation to make a proper statement by mandamus.

PENALTY FOR OMISSION TO MAKE STATEMENT.

§ 28. In case of neglect to furnish such statements within thirty days after the time above provided, the company so neglecting shall forfeit to the people of this state for each statement so omitted to be furnished, the sum of two hundred and fifty dollars, and it shall be the duty of the attorney-general to prosecute for such penalty upon information which shall be furnished him by the comptroller. Upon such statement being furnished and the costs of the suit being paid the comptroller, if he shall be satisfied that such omission was not willful, may, in his discretion, discontinue such suit.

* * * * *

CORPORATIONS, HOW ASSESSED.

§ 31. The assessors shall assess corporations liable to taxation in their respective tax districts upon their assessment-rolls in the following manner:

1. In the first column the name of each corporation, and under its name the amount of its capital stock paid in and secured to be paid in; the amount paid by it for real property then owned by it wherever situated; the amount of all surplus profits or reserve funds exceeding ten per centum of their capital, after deducting therefrom the amount of said real property and the amount of its stock, if any, belonging to the state and to incorporated literary and charitable institutions.

2. In the second column the quantity of real property owned by such corporation and situated within their tax district.

3. In the third column the actual value of such real property.

4. In the fourth column the amount of the capital stock paid in and secured to be paid in and of all such surplus profits or reserve funds as aforesaid after deducting the sums paid out for all the real estate of the company wherever the same may be situated and then belonging to it, and the amount of stock, if any, belonging to the people of the state and to incorporated literary and charitable institutions.

* * * * *

ASSESSORS TO APPORTION VALUATION OF RAILROAD, TELEGRAPH, TELEPHONE, OR PIPE LINE COMPANIES BETWEEN SCHOOL DISTRICTS.

§ 39. The assessors of each town in which a railroad, telegraph, telephone or pipe line company is assessed upon property lying in more than one school district therein, shall, within fifteen days after the final completion of the roll, apportion the assessed valuation of the property of each of such corporations among such school districts. Such apportionment shall be signed by the assessors or a majority of them, and be filed with the town clerk within five days thereafter, and thereupon the valuation so fixed shall become the valuation of such property in such school district for the purpose of taxation. In case of failure of the assessors to act, the supervisor of the town shall make such apportionment on request of either the trustees of any school district or of the corporation assessed. The town clerk shall furnish the trustees a certified statement of the valuations apportioned to their respective districts. In case of any alteration in any school district affecting the valuation of such property, the officer making the same shall fix and determine the valuations in the districts affected for the current year.

* * * * *

**STATEMENT OF TAXES UPON CERTAIN CORPORATIONS BY
CLERK OF SUPERVISORS.**

§ 57. The clerk of each board of supervisors shall, within five days after the tax warrant is completed, deliver to the county treasurer, a statement showing the names, valuation of property and the amount of tax of every railroad corporation and telegraph, telephone and electric-light line in each tax district in the county, and on refusal or neglect so to do, shall forfeit to the county the sum of one hundred dollars, to be sued for by the district attorney in the name of the county.

* * * * *

**PAYMENT OF TAXES BY RAILROAD AND CERTAIN OTHER COR-
PORATIONS.**

§ 73. Any railroad, telegraph, telephone or electric-light company may, within thirty days after receipt of notice by the county treasurer from the clerk of the board of supervisors, pay its tax, with one per centum fees, to the county treasurer, who shall credit the same with such fees to the collector of the tax district, unless otherwise required by law. If not so paid the county treasurer shall notify the collector of the tax district where it is due, and he shall then proceed to collect under his warrant. Until such notice from the treasurer the collector shall not enforce payment of such taxes, but may receive the same, with the fees allowed by law, at any time.

* * * * *

ORGANIZATION TAX.

§ 180. Every stock corporation incorporated under any law of this state shall pay to the state treasurer a tax of one-eighth of one per centum upon the amount of capital stock which the corporation is authorized to have, and a like tax upon any subsequent increase. Such tax shall be due and payable upon the incorporation of such corporation or upon the increase of its capital stock. Neither the secretary of state nor county clerk shall file any certificate of incorporation or article of association, or give any certificate to any such corporation or association until he is furnished a receipt for such tax from the state treasurer, and no stock corporation shall have or exercise any corporate franchise or powers, or carry on business in this state until such tax shall have been paid. In case of the consolidation of existing corporations into a corporation, such new corporation shall be required to pay the tax hereinbefore provided for only

upon the amount of its capital stock in excess of the aggregate amount of capital stock of said corporations. This section shall not apply to state and national banks or to building, mutual loan, accumulating fund and co-operative associations.

LICENSE TAX ON FOREIGN CORPORATIONS.

§ 181. Every foreign corporation, joint-stock company or association, except banking, fire, marine, casualty and life insurance companies, and corporations wholly engaged in carrying on manufactures in this state, co-operative fraternal insurance companies and building and loan associations, authorized to do business under the general corporation law, shall pay to the state treasurer, for the use of the state, a license fee of one-eighth of one per centum for the privilege of exercising its corporate franchises or carrying on its business in such corporate or organized capacity in this state, to be computed upon the basis of the capital stock employed by it within this state during the first year of carrying on its business in this state. No action shall be maintained or recovery had in any of the courts in this state by such foreign corporation without obtaining a receipt for the license fee hereby imposed within thirteen months after beginning such business within the state.

FRANCHISE TAX ON CORPORATIONS.

§ 182. Every corporation, joint-stock company or association incorporated, organized or formed under, by or pursuant to law in this state, shall pay to the state treasurer annually, an annual tax to be computed upon the basis of the amount of its capital stock employed within this state and upon each dollar of such amount, at the rate of one-quarter of a mill for each one per centum of dividends made and declared upon its capital stock during each year ending with the thirty-first day of October, if the dividends amount to six or more than six per centum upon the par value of such capital stock. If such dividend or dividends amount to less than six per centum on the par value of the capital stock, the tax shall be at the rate of one and one-half mills upon such portion of the capital stock at par as the amount of capital employed within this state bears to the entire capital of the corporation. If no dividend is made or declared, the tax shall be at the rate of one and one-half mills upon each dollar of the appraised capital employed within the state. If such corporation, joint-stock company or association shall have

more than one kind of capital stock, and upon one of such kinds of stock a dividend or dividends amounting to six, or more than six per centum, upon the par value thereof, has been made or declared, and upon the other no dividend has been made or declared, or the dividend or dividends made or declared thereon, amount to less than six per centum upon the par value thereof, then the tax shall be at the rate of one-quarter of a mill for each one per centum of dividends made or declared upon the capital stock upon the par value of which the dividend or dividends made or declared amount to six or more than six per centum, and in addition thereto a tax shall be charged at the rate of one and one-half mills upon every dollar of the valuation made in accordance with the provisions of this act of the capital stock upon which no dividend was made or declared, or upon the par value of which the dividend or dividends made or declared did not amount to six per centum. Every corporation, joint-stock company or association organized, incorporated or formed under the laws of any other state or country, shall pay a like tax for the privilege of exercising its corporate franchises or carrying on its business in such corporate or organized capacity in this state, to be computed upon the basis of the capital employed by it within this state.

CERTAIN CORPORATIONS EXEMPT FROM TAX ON CAPITAL STOCK.

§ 183. Banks, saving banks, institutions for savings, insurance or surety corporations, manufacturing corporations to the extent only of the capital actually employed in this state in manufacturing, and in the sale of the product of such manufacturing, mining corporations wholly engaged in mining ores within this state, agricultural and horticultural societies or associations, and corporations, joint-stock companies or associations operating elevated railroads or surface railroads not operated by steam, or formed for supplying water or gas or for electric or steam heating, lighting or power purposes, and liable to a tax under sections one hundred and eighty-five and one hundred and eighty-six of this chapter, shall be exempt from the payment of the taxes prescribed by section one hundred and eighty-two of this chapter. This exemption shall not be construed to include title guaranty or trust companies.

ADDITIONAL FRANCHISE TAX ON TRANSPORTATION AND TRANSMISSION CORPORATIONS AND ASSOCIATIONS.

§ 184. Every corporation and joint-stock association formed for steam surface railroad, canal, steamboat, ferry, express, navigation, pipe-line, transfer, baggage express, telegraph, telephone, palace car or sleeping car purposes, and all other transportation corporations not liable to taxes under sections one hundred and eighty-five or one hundred and eighty-six of this chapter, shall pay for the privilege of exercising its corporate franchises or carrying on its business in such corporate or organized capacity in this state, an annual excise tax or license fee which shall be equal to five-tenths of one per centum upon its gross earnings within the state, which shall include its gross earnings from its transportation or transmission business originating and terminating within this state, but shall not include earnings derived from business of an interstate character. All settlements for such taxes heretofore based by the comptroller upon gross earnings excluding earnings from interstate business, have been ratified and confirmed, except that the accounts for taxation under section six of chapter three hundred and sixty-one of the laws of eighteen hundred and eighty-one, for the years eighteen hundred and ninety-two and eighteen hundred and ninety-three, shall be settled and adjusted by the comptroller by excluding the earnings of an interstate character as provided by this section.

FRANCHISE TAX ON ELEVATED RAILROADS OR SURFACE RAILROADS NOT OPERATED BY STEAM.

§ 185. Every corporation, joint-stock company or association operating any elevated railroad or surface railroad not operated by steam shall pay to the state for the privilege of exercising its corporate franchise or carrying on its business in such corporate or organized capacity within this state, an annual tax which shall be one per centum upon its gross earnings from all sources within this state, and three per centum upon the amount of dividends declared or paid in excess of four per centum upon the actual amount of paid-up capital employed by such corporation, joint-stock company or association. Any corporation, joint-stock company or association taxed under this section which has paid a tax to the state for the year ending November first, eighteen hundred and ninety-five, under section three of chapter five hundred and forty-two of the laws of eighteen hundred and eighty, as amended by chapter five hundred and twenty-

two of the laws of eighteen hundred and ninety, shall be credited by the comptroller with one-third of the amount so paid in computing the taxes to be paid for the year ending June thirtieth, eighteen hundred and ninety-six.

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REPORTS OF CORPORATIONS.

§ 189. Corporations liable to pay a tax under this article report as follows:

1. Corporations paying franchise tax.— Every corporation, association or joint-stock company liable to pay a tax under section one hundred and eighty-two of this chapter shall on or before November fifteenth in each year, make a written report to the comptroller of its condition at the close of its business on October thirty-first preceding, stating the amount of its authorized capital stock, the amount of stock paid in, the date and rate per centum of each dividend declared by it during the year ending with such day, the entire amount of the capital of such corporation, and the capital employed by it in this state during such year.

2. Transportation and transmission corporations.— Every transportation or transmission corporation, joint-stock company or association liable to pay an additional tax under section one hundred and eighty-four of this chapter, shall also, on or before August first in each year, make a written report to the comptroller of its condition at the close of its business on June thirtieth preceding, stating the amount of its gross earnings from all sources and the amount of its gross earnings from its transportation or transmission business originating and terminating within this state.

3. Elevated and surface railroad corporations.— Every corporation, joint-stock company or association liable to pay a tax under section one hundred and eighty-five of this chapter, shall, on or before August first of each year, make a written report to the comptroller of its condition at the close of its business on June thirtieth preceding, stating the amount of its gross earnings from business done in this state, the amount of dividends of every nature declared or paid during the year ending June thirtieth, the authorized capital of the company and the amount of capital stock actually issued and outstanding.

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VALUE OF STOCK TO BE APPRAISED.

§ 190. In case no dividend has been declared, by a corporation, association or joint-stock company liable to pay a tax under section one hundred and eighty-two of this chapter, the treasurer or secretary of the company, shall, under oath, between the first and fifteenth day of November in each year, estimate and appraise the capital stock of such company upon which no dividend has been declared, or upon which the dividend amounted to less than six per centum at its actual value in cash, not less, however, than the average price which said stock sold for during said year, and shall forward the same to the comptroller with the report provided for in the last section. If the comptroller is not satisfied with the valuation so made and returned he is authorized and empowered to make a valuation thereof, and settle an account upon the valuation so made by him, and the taxes, penalties and interest to be paid to the state.

FURTHER REQUIREMENTS AS TO REPORT OF CORPORATIONS.

§ 191. Every report required by this article shall have annexed thereto, the affidavit of the president, vice-president, secretary or treasurer of the corporation, association or joint-stock company or of the person or one of the persons, or the members of the partnership making the same, to the effect that the statements contained therein are true. Such reports shall contain any other data, information or matter which the comptroller may require to be included therein, and he may prescribe the form in which such reports shall be made and the form of oath thereto. When so prescribed such form shall be used in making the report. The comptroller may require at any time a further or supplemental report under this article, which shall contain information and data upon such matters as the comptroller may specify.

POWERS OF COMPTROLLER TO EXAMINE INTO AFFAIRS OF CORPORATIONS.

§ 192. In case any report required by any of the preceding sections of this article shall be unsatisfactory to the comptroller, or if any such report is not made as herein required, the comptroller is authorized to make an estimate of the dividends paid by such corporation and the value of the capital stock employed by it, from any such report or from any other data, and to order and state an

account according to the estimate and value so made by him for the taxes, percentages and interest due the state from such corporation, association, joint-stock company, person or partnership. The comptroller shall also have power to examine or cause to be examined in case of a failure to report or in case the report is unsatisfactory to him, the books and records of any such corporation, joint-stock association, company, foreign banker, person or partnership, and may hear testimony and take proofs material for his information, either personally or he may appoint a commissioner by a written appointment under his hand and official seal for that purpose. Every commissioner so appointed shall be authorized to make such examination and take such testimony and hear such proofs and report the proofs and testimony so taken and the result of his examination so made and the facts found by him to the comptroller. The comptroller shall, therefrom, or from any other data which shall be satisfactory to him, order and state an account for the tax due the state, together with the expenses of such examination and the taking of such testimony and proofs. Such expenses shall be fixed and adjusted by the comptroller.

NOTICE OF STATEMENT OF TAX; INTEREST.

§ 193. Upon auditing and stating every account for taxes or other charges under this article, the comptroller shall forthwith send notice thereof in writing to the person, partnership, company, association or corporation against whom the same is made, which notice may be mailed to the post-office address of such person, partnership, association, company or corporation. All accounts so audited and stated shall bear interest upon the total amount found due thereon to the state, for taxes, percentage, interest and other charges, from the expiration of thirty days after sending such notice until payment thereof shall be made.

PAYMENT OF TAX AND PENALTY FOR FAILURE.

§ 194. A tax imposed by sections one hundred and eighty-two or one hundred and eighty-six of this chapter, shall be due and payable into the state treasury on or before the fifteenth day of January in each year. A tax imposed by section one hundred and eighty-four of this chapter on a transportation or transmission corporation, or by section one hundred and eighty-five, on elevated railroads or surface railroads not operated by steam, or by section one hundred

and eighty-seven of this chapter on an insurance corporation, shall be due and payable into the state treasury on or before the first day of August in each year. A tax imposed by section one hundred and eighty-eight of this chapter on a foreign banker shall be due and payable into the state treasury on or before February first in each year. If such tax in any case is not paid within thirty days after the same becomes due, or if the report of any such corporation is not made within the time required by this article, the corporation, association, joint-stock company, person or partnership, liable to pay the tax, shall pay into the state treasury in addition to the amount of such tax, a sum equal to five per centum thereof, and one per centum additional for each month the tax remains unpaid, which sum shall be added to the tax and paid or collected therewith. Every corporation, association, joint-stock company, person or partnership failing to make the annual report required by this article, or failing to make any special report required by the comptroller, within any reasonable time to be specified by him, shall forfeit to the people of the state the sum of one hundred dollars for every such failure, and the additional sum of ten dollars for each day that such failure continues. Such tax shall be a lien upon and bind all the real and personal property of the corporation, joint-stock company or association liable to pay the same from the time when it is payable until the same is paid in full.

REVISION AND READJUSTMENT OF ACCOUNTS BY COMPTROLLER.

§ 195. The comptroller may, at any time within one year from the time any such account shall have been audited and stated, and notice thereof sent to the person, partnership, company, association or corporation against whom it is stated, revise and readjust such account upon application therefor by the party against whom the account is stated or by the attorney-general, and if it shall be made to appear upon any such application by evidence submitted to him or otherwise, that any such account included taxes or other charges which could not have been lawfully demanded, or that payment has been legally made or exacted of any such account, he shall resettle the same according to law and the facts, and charge or credit, as the case may require, the difference, if any, resulting from such revision or resettlement upon the accounts for taxes of or against any such person, partnership, company, association or corporation. The

comptroller shall forthwith send written notice of its determination upon such application to the applicant, which notice may be sent by mail to his post-office address.

REVIEW OF DETERMINATION OF COMPTROLLER BY CERTIORARI.

§ 196. The determination of the comptroller upon any application made to him by any person, partnership, company, association or corporation for a revision and resettlement of any account, as prescribed in this article, may be reviewed both upon the law and the facts, upon certiorari by the supreme court at the instance of any person, partnership, company, association or corporation affected thereby, and in the name and on behalf of the people of the state. For the purpose of such review the comptroller shall return, on such certiorari, the accounts and all the evidence before him on such application, and all the papers and proofs upon the original statement of such account and all proceedings thereon. If the original or resettled accounts shall be found erroneous or illegal, either in point of law or of fact, by the supreme court, upon any such review, the accounts reviewed shall then be corrected and restated, and from any determination of the supreme court upon any such review, an appeal to the court of appeals may be taken by either party.

REGULATIONS AS TO SUCH WRIT OF CERTIORARI.

§ 197. No certiorari to review any audit and statement of an account or any determination by the comptroller under this article, shall be granted unless notice of application therefor is made within thirty days after the service of the notice of such determination. Eight days' notice shall be given to the comptroller of the application for such writ. The full amount of the taxes, percentage, interest and other charges, audited and stated in such account, must be deposited with the state treasurer before making the application and an undertaking filed with the comptroller in such amount and with such sureties as a justice of the supreme court shall approve, to the effect that if such writ is dismissed or the determination of the comptroller affirmed, the applicant for the writ will pay all costs and charges which may accrue against him, or if in the prosecution of the writ, including costs of all appeals.

WARRANT FOR THE COLLECTION OF TAXES.

§ 198. After the expiration of thirty days from the sending by the comptroller of a notice of a statement of an account as provided in this article, unless the amount of such account shall have been paid or deposited with the state treasurer, if an appeal or other proceeding have been taken to review the same, and the undertaking given as provided in this article, the comptroller may issue a warrant under his hand and official seal, directed to the sheriff of any county of the state commanding him to levy upon and sell the real and personal property of the person, partnership, company, association or corporation against which such account is stated, found within his county for the payment of the amount thereof with interest thereon and costs of executing the warrant, and to return such warrant to the comptroller and pay to the state treasurer the money collected by virtue thereof, by a time to be therein specified, not less than sixty days from the date of the warrant. Such warrant shall be a lien upon and shall bind the real and personal property of the person, partnership, company, association or corporation against which it is issued, from the time an actual levy shall be made by virtue thereof. The sheriff to whom any such warrant shall be directed shall proceed upon the same in all respects, with like effect, and in the same manner as prescribed by law in respect to executions issued against property upon judgments of a court of record, and shall be entitled to the same fees for his services in executing the warrant, to be collected in the same manner.

INFORMATION OF DELINQUENTS.

§ 199. It shall be the duty of any person having knowledge of the evasion of taxation under this article by any corporation, association, joint-stock company, partnership or person liable to taxation thereunder, for any omission on their part to make the reports required by this article, to make a written report thereof to the comptroller of the state, with such information as may be in his possession as may lead to the recovery of any taxes due the state therefrom. If, in his opinion, the interests of the state require it, the comptroller may employ such person to assist in the collection and preparation of evidence and in the prosecution and trial of actions for such taxes, and so much of the same, not exceeding ten per centum thereof, as may be collected from any such delinquent corporation, associa-

tion, company, partnership or person, by reason of such report and such services, as shall have been agreed upon between such person and the comptroller or attorney-general as a compensation therefor, shall be paid to such person, and nothing shall be paid to such person for such report or services unless there shall be a recovery of taxes by reason thereof.

ACTION FOR RECOVERY OF TAXES; FORFEITURE OF CHARTER OF DELINQUENT CORPORATION.

§ 200. An action may be brought by the attorney-general, at the instance of the comptroller, in the name of the state, to recover the amount of any account audited and stated by the comptroller under the provisions of this article. If any such account shall remain unpaid at the expiration of one year after notice of the statement thereof has been sent as required by this article, and the comptroller is satisfied that the failure to pay the same is intentional, he shall so report to the attorney-general, who shall immediately bring an action, in the name of the people of the state, for the forfeiture of the franchise of any corporation, joint-stock company or association failing to make such payment, and if it is found that such failure was intentional, judgment shall be rendered in such action for the forfeiture of its franchise and for its dissolution, and thereafter such franchise shall be annulled.

REPORTS TO BE MADE BY THE SECRETARY OF STATE.

§ 201. The secretary of state shall transmit on the first day of each month to the comptroller, a report of the stock corporations whose certificates of incorporation are filed, or of the foreign stock corporations to whom a certificate of authority has been issued to do business in this state, during the preceding month. Such report shall state the name of the corporation, its place of business, the amount of its capital stock, its purposes or objects, the names and places of residence of its directors, and, if a foreign corporation, its place of business within the state. The comptroller may prescribe the forms and furnish the blanks for such reports. The secretary of state shall make like reports to the comptroller whenever required by him relating to any such corporations whose certificates have been filed or to whom a certificate of authority has been issued prior to the time when this article takes effect, and during any period of time specified by the comptroller in his request for such report.

EXEMPTIONS FROM OTHER STATE TAXATION.

§ 202. The personal property of every corporation, company, association or partnership taxable under this article, other than for an organization tax, shall be exempt from assessment and taxation upon its personal property for state purposes, if all taxes due and payable under this article have been paid thereby. The personal property of a private or individual banker, actually employed in his business as such banker, shall be exempt from taxation for state purposes, if such private or individual banker shall have paid all taxes due and payable under this article. Such corporation and private or individual banker shall in no other respect be relieved from assessment and taxation by reason of the provisions of this article.

APPLICATION OF TAXES.

§ 203. The taxes imposed by this article and the revenues thereof shall be applicable to the general fund of the treasury and to the payment of all claims and demands which are a lawful charge thereon.

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LIABILITY OF CERTAIN CORPORATIONS TO TAX.

§ 228. If a foreign executor, administrator or trustee shall assign or transfer any stock or obligations in this state standing in the name of a decedent, or in trust for a decedent, liable to any such tax, the tax shall be paid to the treasurer of the proper county or the comptroller of the city of New York on the transfer thereof. No safe deposit company, bank or other institution, person or persons holding securities or assets of a decedent, shall deliver or transfer the same to the executors, administrators or legal representatives of said decedent unless notice of the time and place of such intended transfer be served upon the county treasurer or comptroller at least five days prior to the said transfer. And it shall be lawful for the said county treasurer or comptroller, personally or by representative, to examine said securities or assets at the time of such delivery or transfer. Failure to serve such notice or to allow such examination shall render said safe deposit company, trust company, bank or other institution, person or persons liable to the payment of the tax due upon said securities or assets in pursuance of the provisions of this article.

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APPLICATION OF TAXES.

§ 241. All taxes levied and collected under this article shall be paid into the treasury of the state for the use of the state, and shall be applicable to the expenses of the state government and to such other purposes as the legislature shall by law direct.

DEFINITIONS.

§ 242. The words "estate" and "property," as used in this article, shall be taken to mean the property or interest therein of the testator, intestate, grantor, bargainor or vendor, passing or transferred to those not herein specifically exempted from the provisions of this article and not as the property or interest therein passing or transferred to individual legatees, devisees, heirs, next of kin, grantees, donees or vendees, and shall include all property or interest therein, whether situated within or without this state, over which this state has any jurisdiction for the purpose of taxation. The word "transfer," as used in this article, shall be taken to include the passing of property or any interest therein in possession or enjoyment, present or future, by inheritance, descent, devise, bequest, grant, deed, bargain, sale or gift, in the manner herein prescribed. The words "county treasurer," "comptroller" and "district attorney," as used in this article shall be taken to mean the treasurer, comptroller or district attorney of the county of the surrogate having jurisdiction as provided in section two hundred and twenty-nine of this article.

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CONTENTS OF PETITION.

§ 250. Any person assessed upon any assessment-roll, claiming to be aggrieved by any assessment for property therein, may present to the supreme court a petition duly verified setting forth that the assessment is illegal, specifying the grounds of the alleged illegality, or if erroneous by reason of overvaluation, stating the extent of such overvaluation, or if unequal in that the assessment has been made at a higher proportionate valuation than the assessment of other property on the same roll by the same officers, specifying the instances in which such inequality exists, and the extent thereof, and stating that he is or will be injured thereby. Such petition must show that application has been made in due time to the proper officers to correct such assessment. Two or more persons assessed upon the same roll who are affected in the same manner by the alleged illegality, error or inequality, may unite in the same petition.

ALLOWANCE OF WRIT OF CERTIORARI.

§ 251. Such petition must be presented to a justice of the supreme court or at a special term of the supreme court in the judicial district in which the assessment complained of was made, within fifteen days after the completion and filing of the assessment-roll and the first posting or publication of the notice thereof as required by this chapter. Upon the presentation of such petition, the justice or court may allow a writ of certiorari to the officers making the assessment, to review such assessment, and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days, and may be extended by the court or a justice thereof. Such writ shall be returnable to a special term of the supreme court of the judicial district in which the assessment complained of was made. The allowance of the writ shall not stay the proceedings of the assessors or other persons to whom it is directed or to whom the assessment is delivered, to be acted upon according to law.

RETURN OF WRIT.

§ 252. The officers making a return to such writ shall not be required to return the original assessment-roll or other original papers acted upon by them, but it shall be sufficient to return certified or sworn copies of such roll or papers, or of such portions thereof as may be called for by such writ. The return must concisely set forth such other facts as may be pertinent and material to show the value of the property assessed on the roll and the grounds for the valuation made by the assessing officers and the return must be verified.

PROCEEDINGS UPON RETURN.

§ 253. If it shall appear upon the return to any such writ that the assessment complained of is illegal or erroneous or unequal for any assessment, if illegal, to be stricken from the roll, or if erroneous or of the reasons alleged in the petition, the court may order such unequal, it may order a re-assessment of the property of the petitioner, or the correction of his assessment upon the roll, in whole or in part, in such manner as shall be in accordance with law, or as shall make it conform to the valuations and assessments of other property upon the same roll and secure equality of assessment. If upon the hearing it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or may appoint a referee to take such evidence as it may direct, and report

the same to the court, with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. A new assessment or correction of an assessment made by order of the court shall have the same force and effect as if it had been so made by the proper officers within the time prescribed by law for making such assessment.

COSTS.

§ 254. Costs shall not be allowed against the officers whose proceedings may be reviewed under any such writ unless it shall appear to the court that they acted with gross negligence or in bad faith or with malice in making the assessment complained of. If the writ shall be quashed or the prayer of the petitioner denied, costs shall be awarded against the petitioner, not exceeding the costs and disbursements taxable in an action upon the trial of an issue of fact in the supreme court.

APPEALS.

§ 255. An appeal may be taken by either party from an order, judgment or determination under this article as from an order, and it shall be heard and determined in like manner as appeals in the supreme court from orders. All issues and appeals in any proceeding under this article shall have preference over all other civil actions and proceedings in all courts.

REFUND OF TAX PAID UPON ILLEGAL, ERRONEOUS OR UNEQUAL ASSESSMENT.

§ 256. If in a final order in any such proceeding it shall be ordered or adjudged that the assessment complained of was illegal, erroneous or unequal, and such order shall not be made in time to enable the assessors or other officers to make a new or corrected assessment for the use of the board of supervisors, then at the first annual session of the board of supervisors after such correction there shall be audited and allowed to the petitioner and included in the tax levy of such town, village or city, made next after the entry of such order, and paid to the petitioner, the amount paid by him, in excess of what the tax would have been if the assessment had been made as determined by such order of the court, together with interest thereon from the date of payment. In case the amount deducted from such

assessment by such order exceeds ten thousand dollars, so much thereof as shall be refunded by reason of such corrected assessment, other than the proportion or percentage thereof collected for such town, village or city purposes, shall be levied upon the county at large and paid to the petitioner without further audit. The board of supervisors shall audit and levy upon such town, village or city, the proportion or percentage of such excess of tax collected for such town, village or city purposes, which shall be collected and paid to the petitioner without other or further audit.

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SUPPLEMENTARY PROCEEDINGS TO COLLECT TAX.

§ 259. If a tax exceeding ten dollars in amount levied against a person or corporation is returned by the proper collector uncollected for want of personal property out of which to collect the same, the supervisor of the town or ward, or the county treasurer or the president of the village, if it is a village tax, may, within one year thereafter, apply to the court for the institution of proceedings supplementary to execution, as upon a judgment docketed in such county, for the purpose of collecting such tax and fees, with interest thereon from the fifteenth day of February after the levy thereof. Such proceedings may be taken against a corporation, and the same proceedings may thereupon be had in all respects for the collection of such tax as for the collection of a judgment by proceedings supplementary to execution thereon against a natural person, and the same costs and disbursements may be allowed against the person or corporation examined as in such supplementary proceedings but none shall be allowed in his or its favor. The tax, if collected in such proceeding, shall be paid to the county treasurer or to the supervisor of the town, and if a village tax, to the treasurer of the village. The costs and disbursements collected shall belong to the party instituting the proceedings, and shall be applied to the payment of the expense of such proceeding. The president of a village and a county treasurer shall have no compensation for any such proceeding. A supervisor shall have no other compensation except his per diem pay for time necessarily spent in the proceeding.

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ATTORNEY-GENERAL TO BRING ACTION FOR SEQUESTRATION.

§ 263. It shall be the duty of the attorney-general, on being informed by the comptroller or by the county treasurer of any county

that any incorporated company refuses or neglects to pay the taxes imposed upon it, pursuant to articles one and two of this chapter, to bring an action in the supreme court for the sequestration of the property of such corporation, and the court may so sequester the property of such corporation for the purpose of satisfying taxes in arrear with the costs of prosecution, and may, also, in its discretion, enjoin such corporation and further proceedings under its charter until such tax and the costs incurred in the action shall be paid. The attorney-general may recover such tax with costs from such delinquent corporation by action in any court of record.

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LAWS REPEALED.

§ 280. Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed.

WHEN TO TAKE EFFECT.

§ 281. This chapter shall take effect June fifteenth, eighteen hundred and ninety-six.

SCHEDULE OF LAWS REPEALED.

Revised Statutes.		Sections.
Part I, ch. 13.....		All, except § 7 of tit. VI.
Part III, ch. 8, tit. XVII.....		§§ 28, 29, 30.
Laws of	Chapter.	Sections.
1835.....	11.....	All.
1836.....	461.....	All.
1841.....	341.....	All.
1842.....	154.....	All.
1842.....	318.....	All.
1845.....	180.....	29, 30, 31, 32.
1846.....	327.....	All.
1847.....	455.....	16.
1847.....	482.....	All.
1849.....	180.....	All.
1851.....	176.....	All.
1851.....	371.....	All.
1852.....	46.....	All.
1852.....	282.....	All.
1853.....	69.....	All.
1853.....	406.....	All.
1853.....	469.....	All.
1854.....	393.....	All.
1855.....	37.....	All.
1855.....	83.....	All.

Laws of	Chapter.	Sections.
1855.....	327.....	All.
1855.....	427.....	All.
1856.....	183.....	All.
1857.....	7.....	All.
1857.....	456.....	All.
1857.....	536.....	All.
1857.....	585.....	All.
1858.....	110.....	All.
1858.....	357.....	All.
1859.....	312.....	All.
1860.....	209.....	All.
1862.....	194.....	All.
1862.....	285.....	1.
1865.....	453.....	All.
1866.....	136.....	All.
1866.....	528.....	All.
1866.....	820.....	All.
1867.....	361.....	All.
1867.....	694.....	All.
1868.....	575.....	All.
1869.....	859.....	All.
1870.....	280.....	All.
1870.....	325.....	All.
1870.....	492.....	Extract from § 2, authorizing comp- troller to desig- nate papers in which notice of sale of lands for non-payment of taxes shall be published.
1870.....	506.....	2, 3, 4, 5.
1871.....	110.....	All.
1873.....	327.....	All.
1873.....	809.....	All.
1874.....	351.....	All.
1875.....	331.....	All.
1875.....	466.....	All.
1875.....	474.....	All.
1876.....	49.....	All.
1876.....	96.....	All.
1876.....	101.....	All.
1878.....	152.....	All.
1879.....	492.....	All.
1880.....	80.....	All.
1880.....	91.....	All.
1880.....	269.....	All.
1880.....	327.....	All.
1880.....	448.....	All.

Laws of	Chapter.	Sections.
1880.....	542.....	All.
1880.....	552.....	All.
1881.....	8.....	All.
1881.....	166.....	All.
1881.....	293.....	All.
1881.....	361.....	All.
1881.....	402.....	5.
1881.....	433.....	All.
1881.....	640.....	All.
1882.....	151.....	All.
1882.....	409.....	312-327 inclusive.
1883.....	342.....	All.
1883.....	392.....	All.
1883.....	397.....	All.
1883.....	464.....	All.
1884.....	57.....	All.
1884.....	153.....	All.
1884.....	280.....	All.
1884.....	353.....	All.
1884.....	414.....	All.
1884.....	435.....	All.
1884.....	537.....	All.
1885.....	10.....	All.
1885.....	32.....	All.
1885.....	201.....	All.
1885.....	215.....	All.
1885.....	340.....	12.
1885.....	359.....	All.
1885.....	411.....	All.
1885.....	453.....	All.
1885.....	501.....	All.
1886.....	59.....	All.
1886.....	102.....	All.
1886.....	143.....	All.
1886.....	266.....	All.
1886.....	315.....	All.
1886.....	659.....	1, 2, 3, 5, 6.
1886.....	679.....	All.
1887.....	284.....	All.
1887.....	342.....	All.
1888.....	110.....	All.
1889.....	191.....	All.
1889.....	193.....	All.
1889.....	353.....	All.
1889.....	462.....	All.
1889.....	463.....	All.
1889.....	469.....	All.
1889.....	563.....	All.
1890.....	145.....	All.
1890.....	174.....	All.

Laws of	Chapter.	Sections.
1890.....	206.....	All.
1890.....	497.....	All.
1890.....	522.....	All.
1890.....	553.....	All.
1890.....	556.....	All.
1891.....	163.....	All.
1891.....	211.....	All.
1891.....	218.....	All.
1892.....	196.....	All.
1892.....	202.....	I.
1892.....	266.....	All.
1892.....	347.....	All.
1892.....	399.....	All.
1892.....	463.....	All.
1892.....	477.....	All.
1892.....	529.....	All.
1892.....	565.....	All.
1892.....	661.....	All.
1892.....	668.....	All.
1892.....	713.....	All.
1892.....	714.....	All.
1893.....	199.....	All.
1893.....	498.....	All.
1893.....	525.....	All.
1893.....	704.....	All.
1893.....	711.....	All.
1894.....	196.....	All.
1894.....	312.....	All.
1894.....	562.....	All.
1894.....	713.....	All.
1895.....	378.....	All.
1895.....	418.....	All.
1895.....	425.....	All.
1895.....	515.....	All.
1895.....	556.....	All.
1895.....	558.....	All.
1895.....	608.....	All.
1895.....	895.....	All.
Fisheries, Game and Forest Law.....		274

CHAP. 973, LAWS OF 1896.

AN ACT to amend the highway law, relative to commutations of labor on highways.

Section 1. Section sixty-two of chapter five hundred and sixty-eight of the laws of eighteen hundred and ninety, constituting chapter nineteen of the general laws, as amended by chapter five hundred and seventy-nine of the laws of eighteen hundred and ninety-five, is amended so as to read as follows:

§ 62. Every person and corporation shall work the whole number of days for which he or it shall have been assessed, except such days as shall be commuted for, at the rate of one dollar per day, and such commutation money shall be paid to the overseers of highways of the district in which the labor shall be assessed, within at least twenty-four hours before the time when the person or corporation is required to appear and work on the highways; but any corporation may pay its commutation money to the commissioners of highways of the town, who shall pay the same to the overseers of the districts, respectively, in which the labor commuted for was assessed, except in the counties of Onondaga, Columbia, Wayne, Erie, Sullivan, Broome and Orange, where such commutation money shall be paid on or before the first day of June of each year, to the commissioner or commissioners of highways of the town in which the labor shall be assessed, and such commutation money shall be expended by the commissioner or commissioners of highways upon the roads and bridges of the town as may be directed by the town board.

Bonding of Towns, and Railroad Aid Debts.

Several statutes of this state relative to the bonding of towns, etc., are omitted, because by article VIII., section 10 of the Constitution of the state of New York they are practically abrogated as to any future application, and remain as applying only to the time prior to the adoption of said constitutional amendment. These acts are as follows: Chap. 695, Laws of 1866; chap. 907, Laws of 1869; chaps. 300, 438, 507, 597, Laws of 1870; chaps. 64, 146, 260, 283, 388, 925, Laws of 1871; chaps. 54, 62, 307, 516, 689, 824, 883, Laws of 1872; chap. 720, Laws of 1873; chap. 328, Laws of 1875; chap. 320, Laws of 1877; chap. 62, Laws of 1879; chaps. 68, 293, Laws of 1882. In connection with this subject, see, however, chap. 685, Laws of 1892, known as the "general municipal law," portions of which are herein given :

ARTICLE VIII.—SECTION 10, CONSTITUTION OF THE STATE OF NEW YORK. No county, city, town or village shall hereafter give any money or property, or loan its money or credit to or in aid of any individual, association or corporation, or become directly or indirectly the owner of stock in, or bonds of, any association or corporation; nor shall any such county, city, town or village be allowed to incur any indebtedness except for county, city, town or village purposes. This section shall not prevent such county, city, town or village from making such provision for the aid or support of its poor as may be authorized by law. No county or city shall be allowed to become indebted for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed ten per centum of the assessed valuation of the real estate of such county or city subject to taxation, as it appeared by the assessment-rolls of said county or city on the last assessment for state or county taxes prior to the incurring of such indebtedness; and all indebtedness in excess of such limitation, except such as may now exist, shall be absolutely void, except as herein otherwise provided. No county or city whose present indebtedness exceeds ten per centum of the assessed valuation of its real estate subject to taxation, shall be allowed to become in-

debted in any further amount until such indebtedness shall be reduced within such limit. This section shall not be construed to prevent the issuing of certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes for amounts actually contained, or to be contained in the taxes for the year when such certificates or revenue bonds are issued and payable out of such taxes. Nor shall this section be construed to prevent the issue of bonds to provide for the supply of water; but the term of the bonds issued to provide the supply of water shall not exceed twenty years, and a sinking fund shall be created on the issuing of the said bonds for their redemption, by raising annually a sum which will produce an amount equal to the sum of the principal and interest of said bonds at their maturity. All certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes, which are not retired within five years after their date of issue, and bonds issued to provide for the supply of water, and any debt hereafter incurred by any portion or part of a city, if there shall be any such debt, shall be included in ascertaining the power of the city to become otherwise indebted. Whenever hereafter the boundaries of any city shall become the same as those of a county, the power of the county to become indebted shall cease, but the debt of the county at that time existing shall not be included as a part of the city debt. The amount hereafter to be raised by tax for county or city purposes, in any county containing a city of over one hundred thousand inhabitants, or any such city of this state, in addition to providing for the principal and interest of existing debt, shall not in the aggregate exceed in any one year two per centum of the assessed valuation of the real and personal estate of such county or city, to be ascertained as prescribed in this section in respect to county or city debt.

CHAP. 685, LAWS OF 1892.

AN ACT in relation to municipal corporations, constituting chapter seventeen of the general laws.

THE GENERAL MUNICIPAL LAW.

* * * * *

FUNDED AND BONDED DEBTS.

§ 7. The bonded indebtedness of a municipal corporation, including interest due or unpaid, or any part thereof, may be paid up or retired by the issue of new substituted bonds for like amounts by the board of supervisors or supervisor, board, council or officers having in charge the payment of such bonds. Such new bonds shall only to be issued when the existing bonds can be retired by the substitution of the new bonds therefor, or can be paid up by money realized by the sale of such new bonds. Where such bonded

indebtedness shall become due within two years from the issue of such new bonds, such new bonds may be issued and sold to provide money in advance to pay up such existing bonds when they shall become due. Such new bonds shall contain a recital* shall be conclusive evidence of their validity and of the regularity of the issue; shall be made payable not less than one or more than thirty years from their date; shall bear date and draw interest from the date of the payment of the existing bonds, or the receipt of the money to pay the same, at not exceeding the rate of four per centum per annum, payable quarterly, semi-annually or annually; and an amount equal to not less than two per centum of the whole amount of such new bonds shall be payable each year after the issue thereof. Such new bonds shall be sold and negotiated at the best price obtainable, not less than their par value; shall be valid and binding on the municipal corporation issuing them; and until payable shall be exempt from taxation for town, county, municipal or state purposes. All bonds and coupons retired or paid shall be immediately canceled. A certificate shall be issued by the officer, board or body issuing such new bonds stating the amount of existing bonds, and of the new bonds so issued, which shall be forthwith filed in the office of the county clerk. Except as provided in this section, new bonds shall not be issued in pursuance thereof, for bonds of a municipal corporation adjudged invalid by the final judgment of a competent court. A majority of the taxpayers of a town, voting at a general town meeting, or special town meeting duly called, may authorize the issue in pursuance of this section of new bonds for such invalid bonds, and each new bond so issued shall contain substantially the following recital: "The issue of this bond is duly authorized by a vote of the taxpayers of the said town;" which shall be conclusive evidence of such fact. The payment, adjustment or compromise of a part of the bonded indebtedness of a municipal corporation shall not be deemed an admission of the validity or a recognition of any part of the bonded indebtedness of such municipal corporation not paid, adjusted or compromised. (*Thus amended by chaps. 122 and 466, Laws of 1893.*)* * * * *

MUNICIPAL TAXES OF RAILROADS PAYABLE TO THE COUNTY TREASURER.

§ 12. If a town, village or city has outstanding unpaid bonds, issued, or substituted for bonds issued, to aid in the construction

* So in the original.

the same to the court, with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. A new assessment or correction of an assessment made by order of the court shall have the same force and effect as if it had been so made by the proper officers within the time prescribed by law for making such assessment.

COSTS.

§ 254. Costs shall not be allowed against the officers whose proceedings may be reviewed under any such writ unless it shall appear to the court that they acted with gross negligence or in bad faith or with malice in making the assessment complained of. If the writ shall be quashed or the prayer of the petitioner denied, costs shall be awarded against the petitioner, not exceeding the costs and disbursements taxable in an action upon the trial of an issue of fact in the supreme court.

APPEALS.

§ 255. An appeal may be taken by either party from an order, judgment or determination under this article as from an order, and it shall be heard and determined in like manner as appeals in the supreme court from orders. All issues and appeals in any proceeding under this article shall have preference over all other civil actions and proceedings in all courts.

REFUND OF TAX PAID UPON ILLEGAL, ERRONEOUS OR UNEQUAL ASSESSMENT.

§ 256. If in a final order in any such proceeding it shall be ordered or adjudged that the assessment complained of was illegal, erroneous or unequal, and such order shall not be made in time to enable the assessors or other officers to make a new or corrected assessment for the use of the board of supervisors, then at the first annual session of the board of supervisors after such correction there shall be audited and allowed to the petitioner and included in the tax levy of such town, village or city, made next after the entry of such order, and paid to the petitioner, the amount paid by him, in excess of what the tax would have been if the assessment had been made as determined by such order of the court, together with interest thereon from the date of payment. In case the amount deducted from such

assessment by such order exceeds ten thousand dollars, so much thereof as shall be refunded by reason of such corrected assessment, other than the proportion or percentage thereof collected for such town, village or city purposes, shall be levied upon the county at large and paid to the petitioner without further audit. The board of supervisors shall audit and levy upon such town, village or city, the proportion or percentage of such excess of tax collected for such town, village or city purposes, which shall be collected and paid to the petitioner without other or further audit.

* * * * *

SUPPLEMENTARY PROCEEDINGS TO COLLECT TAX.

§ 259. If a tax exceeding ten dollars in amount levied against a person or corporation is returned by the proper collector uncollected for want of personal property out of which to collect the same, the supervisor of the town or ward, or the county treasurer or the president of the village, if it is a village tax, may, within one year thereafter, apply to the court for the institution of proceedings supplementary to execution, as upon a judgment docketed in such county, for the purpose of collecting such tax and fees, with interest thereon from the fifteenth day of February after the levy thereof. Such proceedings may be taken against a corporation, and the same proceedings may thereupon be had in all respects for the collection of such tax as for the collection of a judgment by proceedings supplementary to execution thereon against a natural person, and the same costs and disbursements may be allowed against the person or corporation examined as in such supplementary proceedings but none shall be allowed in his or its favor. The tax, if collected in such proceeding, shall be paid to the county treasurer or to the supervisor of the town, and if a village tax, to the treasurer of the village. The costs and disbursements collected shall belong to the party instituting the proceedings, and shall be applied to the payment of the expense of such proceeding. The president of a village and a county treasurer shall have no compensation for any such proceeding. A supervisor shall have no other compensation except his per diem pay for time necessarily spent in the proceeding.

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ATTORNEY-GENERAL TO BRING ACTION FOR SEQUESTRATION.

§ 263. It shall be the duty of the attorney-general, on being informed by the comptroller or by the county treasurer of any county

that any incorporated company refuses or neglects to pay the taxes imposed upon it, pursuant to articles one and two of this chapter, to bring an action in the supreme court for the sequestration of the property of such corporation, and the court may so sequester the property of such corporation for the purpose of satisfying taxes in arrear with the costs of prosecution, and may, also, in its discretion, enjoin such corporation and further proceedings under its charter until such tax and the costs incurred in the action shall be paid. The attorney-general may recover such tax with costs from such delinquent corporation by action in any court of record.

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LAWS REPEALED.

§ 280. Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed.

WHEN TO TAKE EFFECT.

§ 281. This chapter shall take effect June fifteenth, eighteen hundred and ninety-six.

SCHEDULE OF LAWS REPEALED.

Revised Statutes.		Sections.
Part I, ch. 13.....		All, except § 7 of tit. VI.
Part III, ch. 8, tit. XVII.....		§§ 28, 29, 30.
Laws of	Chapter.	Sections.
1835.....	11.....	All.
1836.....	461.....	All.
1841.....	341.....	All.
1842.....	154.....	All.
1842.....	318.....	All.
1845.....	180.....	29, 30, 31, 32.
1846.....	327.....	All.
1847.....	455.....	16.
1847.....	482.....	All.
1849.....	180.....	All.
1851.....	176.....	All.
1851.....	371.....	All.
1852.....	46.....	All.
1852.....	282.....	All.
1853.....	69.....	All.
1853.....	406.....	All.
1853.....	469.....	All.
1854.....	393.....	All.
1855.....	37.....	All.
1855.....	83.....	All.

Laws of	Chapter.	Sections.
1855.....	327.....	All.
1855.....	427.....	All.
1856.....	183.....	All.
1857.....	7.....	All.
1857.....	456.....	All.
1857.....	536.....	All.
1857.....	585.....	All.
1858.....	110.....	All.
1858.....	357.....	All.
1859.....	312.....	All.
1860.....	209.....	All.
1862.....	194.....	All.
1862.....	285.....	1.
1865.....	453.....	All.
1866.....	136.....	All.
1866.....	528.....	All.
1866.....	820.....	All.
1867.....	361.....	All.
1867.....	694.....	All.
1868.....	575.....	All.
1869.....	859.....	All.
1870.....	280.....	All.
1870.....	325.....	All.
1870.....	492.....	Extract from § 2, authorizing comp- troller to desig- nate papers in which notice of sale of lands for non-payment of taxes shall be published.
1870.....	506.....	2, 3, 4, 5.
1871.....	110.....	All.
1873.....	327.....	All.
1873.....	809.....	All.
1874.....	351.....	All.
1875.....	331.....	All.
1875.....	466.....	All.
1875.....	474.....	All.
1876.....	49.....	All.
1876.....	96.....	All.
1876.....	101.....	All.
1878.....	152.....	All.
1879.....	492.....	All.
1880.....	80.....	All.
1880.....	91.....	All.
1880.....	269.....	All.
1880.....	327.....	All.
1880.....	448.....	All.

Laws of	Chapter.	Sections.
1880.....	542.....	All.
1880.....	552.....	All.
1881.....	8.....	All.
1881.....	166.....	All.
1881.....	293.....	All.
1881.....	361.....	All.
1881.....	402.....	5.
1881.....	433.....	All.
1881.....	640.....	All.
1882.....	151.....	All.
1882.....	409.....	312-327 inclusive.
1883.....	342.....	All.
1883.....	392.....	All.
1883.....	397.....	All.
1883.....	464.....	All.
1884.....	57.....	All.
1884.....	153.....	All.
1884.....	280.....	All.
1884.....	353.....	All.
1884.....	414.....	All.
1884.....	435.....	All.
1884.....	537.....	All.
1885.....	10.....	All.
1885.....	32.....	All.
1885.....	201.....	All.
1885.....	215.....	All.
1885.....	340.....	12.
1885.....	359.....	All.
1885.....	411.....	All.
1885.....	453.....	All.
1885.....	501.....	All.
1886.....	59.....	All.
1886.....	102.....	All.
1886.....	143.....	All.
1886.....	266.....	All.
1886.....	315.....	All.
1886.....	659.....	1, 2, 3, 5, 6.
1886.....	679.....	All.
1887.....	284.....	All.
1887.....	342.....	All.
1888.....	110.....	All.
1889.....	191.....	All.
1889.....	193.....	All.
1889.....	353.....	All.
1889.....	462.....	All.
1889.....	463.....	All.
1889.....	469.....	All.
1889.....	563.....	All.
1890.....	145.....	All.
1890.....	174.....	All.

Laws of	Chapter.	Sections.
1890.....	206.....	All.
1890.....	497.....	All.
1890.....	522.....	All.
1890.....	553.....	All.
1890.....	556.....	All.
1891.....	163.....	All.
1891.....	211.....	All.
1891.....	218.....	All.
1892.....	196.....	All.
1892.....	202.....	1.
1892.....	266.....	All.
1892.....	347.....	All.
1892.....	399.....	All.
1892.....	463.....	All.
1892.....	477.....	All.
1892.....	529.....	All.
1892.....	565.....	All.
1892.....	661.....	All.
1892.....	668.....	All.
1892.....	713.....	All.
1892.....	714.....	All.
1893.....	199.....	All.
1893.....	498.....	All.
1893.....	525.....	All.
1893.....	704.....	All.
1893.....	711.....	All.
1894.....	196.....	All.
1894.....	312.....	All.
1894.....	562.....	All.
1894.....	713.....	All.
1895.....	378.....	All.
1895.....	418.....	All.
1895.....	425.....	All.
1895.....	515.....	All.
1895.....	556.....	All.
1895.....	558.....	All.
1895.....	608.....	All.
1895.....	895.....	All.
Fisheries, Game and Forest Law.....		274

CHAP. 973, LAWS OF 1896.

AN ACT to amend the highway law, relative to commutations of labor on highways.

Section 1. Section sixty-two of chapter five hundred and sixty-eight of the laws of eighteen hundred and ninety, constituting chapter nineteen of the general laws, as amended by chapter five hundred and seventy-nine of the laws of eighteen hundred and ninety-five, is amended so as to read as follows:

§ 62. Every person and corporation shall work the whole number of days for which he or it shall have been assessed, except such days as shall be commuted for, at the rate of one dollar per day, and such commutation money shall be paid to the overseers of highways of the district in which the labor shall be assessed, within at least twenty-four hours before the time when the person or corporation is required to appear and work on the highways; but any corporation may pay its commutation money to the commissioners of highways of the town, who shall pay the same to the overseers of the districts, respectively, in which the labor commuted for was assessed, except in the counties of Onondaga, Columbia, Wayne, Erie, Sullivan, Broome and Orange, where such commutation money shall be paid on or before the first day of June of each year, to the commissioner or commissioners of highways of the town in which the labor shall be assessed, and such commutation money shall be expended by the commissioner or commissioners of highways upon the roads and bridges of the town as may be directed by the town board.

Bonding of Towns, and Railroad Aid Debts.

Several statutes of this state relative to the bonding of towns, etc., are omitted, because by article VIII., section 10 of the Constitution of the state of New York they are practically abrogated as to any future application, and remain as applying only to the time prior to the adoption of said constitutional amendment. These acts are as follows: Chap. 695, Laws of 1866; chap. 907, Laws of 1869; chaps. 300, 438, 507, 597, Laws of 1870; chaps. 64, 146, 260, 283, 388, 925, Laws of 1871; chaps. 54, 62, 307, 516, 689, 824, 883, Laws of 1872; chap. 720, Laws of 1873; chap. 328, Laws of 1875; chap. 320, Laws of 1877; chap. 62, Laws of 1879; chaps. 68, 293, Laws of 1882. In connection with this subject, see, however, chap. 685, Laws of 1892, known as the "general municipal law," portions of which are herein given :

ARTICLE VIII.—SECTION 10, CONSTITUTION OF THE STATE OF NEW YORK. No county, city, town or village shall hereafter give any money or property, or loan its money or credit to or in aid of any individual, association or corporation, or become directly or indirectly the owner of stock in, or bonds of, any association or corporation; nor shall any such county, city, town or village be allowed to incur any indebtedness except for county, city, town or village purposes. This section shall not prevent such county, city, town or village from making such provision for the aid or support of its poor as may be authorized by law. No county or city shall be allowed to become indebted for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed ten per centum of the assessed valuation of the real estate of such county or city subject to taxation, as it appeared by the assessment-rolls of said county or city on the last assessment for state or county taxes prior to the incurring of such indebtedness; and all indebtedness in excess of such limitation, except such as may now exist, shall be absolutely void, except as herein otherwise provided. No county or city whose present indebtedness exceeds ten per centum of the assessed valuation of its real estate subject to taxation, shall be allowed to become in-

debted in any further amount until such indebtedness shall be reduced within such limit. This section shall not be construed to prevent the issuing of certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes for amounts actually contained, or to be contained in the taxes for the year when such certificates or revenue bonds are issued and payable out of such taxes. Nor shall this section be construed to prevent the issue of bonds to provide for the supply of water; but the term of the bonds issued to provide the supply of water shall not exceed twenty years, and a sinking fund shall be created on the issuing of the said bonds for their redemption, by raising annually a sum which will produce an amount equal to the sum of the principal and interest of said bonds at their maturity. All certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes, which are not retired within five years after their date of issue, and bonds issued to provide for the supply of water, and any debt hereafter incurred by any portion or part of a city, if there shall be any such debt, shall be included in ascertaining the power of the city to become otherwise indebted. Whenever hereafter the boundaries of any city shall become the same as those of a county, the power of the county to become indebted shall cease, but the debt of the county at that time existing shall not be included as a part of the city debt. The amount hereafter to be raised by tax for county or city purposes, in any county containing a city of over one hundred thousand inhabitants, or any such city of this state, in addition to providing for the principal and interest of existing debt, shall not in the aggregate exceed in any one year two per centum of the assessed valuation of the real and personal estate of such county or city, to be ascertained as prescribed in this section in respect to county or city debt.

CHAP. 685, LAWS OF 1892.

AN ACT in relation to municipal corporations, constituting chapter seventeen of the general laws.

THE GENERAL MUNICIPAL LAW.

* * * * *

FUNDED AND BONDED DEBTS.

§ 7. The bonded indebtedness of a municipal corporation, including interest due or unpaid, or any part thereof, may be paid up or retired by the issue of new substituted bonds for like amounts by the board of supervisors or supervisor, board, council or officers having in charge the payment of such bonds. Such new bonds shall only to be issued when the existing bonds can be retired by the substitution of the new bonds therefor, or can be paid up by money realized by the sale of such new bonds. Where such bonded

indebtedness shall become due within two years from the issue of such new bonds, such new bonds may be issued and sold to provide money in advance to pay up such existing bonds when they shall become due. Such new bonds shall contain a recital that they are issued pursuant to this section, which recital* shall be conclusive evidence of their validity and of the regularity of the issue; shall be made payable not less than one or more than thirty years from their date; shall bear date and draw interest from the date of the payment of the existing bonds, or the receipt of the money to pay the same, at not exceeding the rate of four per centum per annum, payable quarterly, semi-annually or annually; and an amount equal to not less than two per centum of the whole amount of such new bonds shall be payable each year after the issue thereof. Such new bonds shall be sold and negotiated at the best price obtainable, not less than their par value; shall be valid and binding on the municipal corporation issuing them; and until payable shall be exempt from taxation for town, county, municipal or state purposes. All bonds and coupons retired or paid shall be immediately canceled. A certificate shall be issued by the officer, board or body issuing such new bonds stating the amount of existing bonds, and of the new bonds so issued, which shall be forthwith filed in the office of the county clerk. Except as provided in this section, new bonds shall not be issued in pursuance thereof, for bonds of a municipal corporation adjudged invalid by the final judgment of a competent court. A majority of the taxpayers of a town, voting at a general town meeting, or special town meeting duly called, may authorize the issue in pursuance of this section of new bonds for such invalid bonds, and each new bond so issued shall contain substantially the following recital: "The issue of this bond is duly authorized by a vote of the taxpayers of the said town;" which shall be conclusive evidence of such fact. The payment, adjustment or compromise of a part of the bonded indebtedness of a municipal corporation shall not be deemed an admission of the validity or a recognition of any part of the bonded indebtedness of such municipal corporation not paid, adjusted or compromised. (*Thus amended by chaps. 122 and 466, Laws of 1893.*)* * * * *

MUNICIPAL TAXES OF RAILROADS PAYABLE TO THE COUNTY TREASURER.

§ 12. If a town, village or city has outstanding unpaid bonds, issued, or substituted for bonds issued, to aid in the construction

* So in the original.

the same to the court, with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. A new assessment or correction of an assessment made by order of the court shall have the same force and effect as if it had been so made by the proper officers within the time prescribed by law for making such assessment.

COSTS.

§ 254. Costs shall not be allowed against the officers whose proceedings may be reviewed under any such writ unless it shall appear to the court that they acted with gross negligence or in bad faith or with malice in making the assessment complained of. If the writ shall be quashed or the prayer of the petitioner denied, costs shall be awarded against the petitioner, not exceeding the costs and disbursements taxable in an action upon the trial of an issue of fact in the supreme court.

APPEALS.

§ 255. An appeal may be taken by either party from an order, judgment or determination under this article as from an order, and it shall be heard and determined in like manner as appeals in the supreme court from orders. All issues and appeals in any proceeding under this article shall have preference over all other civil actions and proceedings in all courts.

REFUND OF TAX PAID UPON ILLEGAL, ERRONEOUS OR UNEQUAL ASSESSMENT.

§ 256. If in a final order in any such proceeding it shall be ordered or adjudged that the assessment complained of was illegal, erroneous or unequal, and such order shall not be made in time to enable the assessors or other officers to make a new or corrected assessment for the use of the board of supervisors, then at the first annual session of the board of supervisors after such correction there shall be audited and allowed to the petitioner and included in the tax levy of such town, village or city, made next after the entry of such order, and paid to the petitioner, the amount paid by him, in excess of what the tax would have been if the assessment had been made as determined by such order of the court, together with interest thereon from the date of payment. In case the amount deducted from such

assessment by such order exceeds ten thousand dollars, so much thereof as shall be refunded by reason of such corrected assessment, other than the proportion or percentage thereof collected for such town, village or city purposes, shall be levied upon the county at large and paid to the petitioner without further audit. The board of supervisors shall audit and levy upon such town, village or city, the proportion or percentage of such excess of tax collected for such town, village or city purposes, which shall be collected and paid to the petitioner without other or further audit.

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SUPPLEMENTARY PROCEEDINGS TO COLLECT TAX.

§ 259. If a tax exceeding ten dollars in amount levied against a person or corporation is returned by the proper collector uncollected for want of personal property out of which to collect the same, the supervisor of the town or ward, or the county treasurer or the president of the village, if it is a village tax, may, within one year thereafter, apply to the court for the institution of proceedings supplementary to execution, as upon a judgment docketed in such county, for the purpose of collecting such tax and fees, with interest thereon from the fifteenth day of February after the levy thereof. Such proceedings may be taken against a corporation, and the same proceedings may thereupon be had in all respects for the collection of such tax as for the collection of a judgment by proceedings supplementary to execution thereon against a natural person, and the same costs and disbursements may be allowed against the person or corporation examined as in such supplementary proceedings but none shall be allowed in his or its favor. The tax, if collected in such proceeding, shall be paid to the county treasurer or to the supervisor of the town, and if a village tax, to the treasurer of the village. The costs and disbursements collected shall belong to the party instituting the proceedings, and shall be applied to the payment of the expense of such proceeding. The president of a village and a county treasurer shall have no compensation for any such proceeding. A supervisor shall have no other compensation except his per diem pay for time necessarily spent in the proceeding.

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ATTORNEY-GENERAL TO BRING ACTION FOR SEQUESTRATION.

§ 263. It shall be the duty of the attorney-general, on being informed by the comptroller or by the county treasurer of any county

2. An engineer, conductor, brakeman, switchtender, or other officer, agent or employe of any railroad corporation, who willfully violates or omits his duty as such officer, agent or employe, by which human life or safety is endangered, the punishment of which is not otherwise prescribed; is guilty of a misdemeanor.

See section 41, Liquor Tax Law, *ante*. Also, section 42, Railroad Law, *ante*.

FAILURE TO RING BELL, ETC.

§ 421. A person acting as engineer, driving a locomotive on any railway in this state, who fails to ring the bell, or sound the whistle, upon such locomotive, or cause the same to be rung or sounded, at least eighty rods from any place where such railway crosses a traveled road or street on the same level (except in cities), or to continue the ringing such bell or sounding such whistle at intervals, until such locomotive and the train to which the locomotive is attached shall have completely crossed such road or street, or any officer or employe of a corporation who shall willfully obstruct, or cause to be obstructed, any farm or highway crossing with any locomotive or car for a longer period than five consecutive minutes, is guilty of a misdemeanor.

PLACING PASSENGER CAR IN FRONT OF MERCHANDISE OR FREIGHT CAR.

§ 422. A person, being an officer or employe of a railway company, who knowingly places, directs or suffers a freight, lumber, merchandise, or oil car to be placed in rear of a car used for the conveyance of passengers in a railway train, is guilty of a misdemeanor.

PLATFORMS AND HEATING APPARATUS OF PASSENGER CARS.

§ 423. A railroad corporation, or any officer or director thereof having charge of its railroad, or any person managing a railroad in this state, or any person or corporation running passenger cars upon a railroad into or through this state, who:

1. Fails to have the platforms or ends of the passenger cars run upon such railroad constructed in such manner as will prevent passengers falling between the cars while in motion; or,
2. Except temporarily, in case of accident or emergency, heats any passenger car, while in motion, on any such railroad more than fifty miles in length, except a narrow gauge railroad which runs only mixed trains, between October fifteenth and May first, by any stove or furnace inside of or suspended from such car, except stoves of a

pattern and kind approved by the board of railroad commissioners for cooking purposes in dining room cars, and except within the extended time allowed by the railroad commissioners in pursuance of law for introducing other heating apparatus; is guilty of a misdemeanor. (*Thus amended by chap. 692, Laws of 1892.*)

GUARD POSTS ; AUTOMATIC COUPLERS.

§ 424. All corporations and persons other than employes, operating any steam railroad in this state,

1. Failing to cause guard posts to be placed in the prolongation of the line of bridge trusses upon such railroad, so that in case of derailment, the posts and not the trusses shall receive the blow of the derailed locomotive or car; or,

2. Failing after November first, eighteen hundred and ninety-two, to equip all of their own freight cars, run and used in freight or other trains on such railroad, with automatic self-couplers, or running or operating on such railroad any freight car belonging to any such person or corporation, without having the same equipped, except in case of accident or other emergency, with automatic self-couplers, and except within the extended time allowed by the board of railroad commissioners, in pursuance of law, for equipping such car with such couplers; is guilty of a misdemeanor, punishable by a fine of five hundred dollars for each offense. (*Thus amended by chap. 664, Laws of 1896.*)

See, also, chaps. 543 and 544, Laws of 1893, *ante*. Also, section 49, Railroad Law, *ante*.

ADVISING OR INDUCING EMPLOYEES NOT TO WEAR UNIFORM A MISDEMEANOR.

§ 425. A person who

1. Advises or induces any one, being an officer, agent or employe of a railway company, to leave the service of such company, because it requires a uniform to be worn by such officer, agent or employe, or to refuse to wear such uniform, or any part thereof; or,

2. Uses any inducement with a person employed by a railway company to go into the service or employment of any other railway company, because a uniform is required to be worn; or,

3. Wears the uniform designated by a railway company without authority;

Is guilty of a misdemeanor.

RIDING ON FREIGHT TRAINS; GETTING ON CAR OR TRAIN WHILE IN MOTION; OBSTRUCTING, ETC., HORSE OR STREET RAILROAD CARS; PUNISHMENT.

§ 426. Riding on freight trains.

1. A person who rides on any engine or any freight car of any railway company, without authority or permission of the proper officers of the company or of the person in charge of said car or engine; or,

2. Who gets on any car or train while in motion (for the purpose of obtaining transportation thereon as passenger) or,

3. Who willfully obstructs, hinders or delays the passage of any car lawfully running upon any steam or horse or street railway;

Is guilty of a misdemeanor.

See chapter 590, Laws of 1872, *ante*.

UNAUTHORIZED MANUFACTURE, SALE OR USE OF ILLUMINATING OILS.

§ 427a. A person who violates any provision of the domestic commerce law, relating to the standard, manufacture, sale, use or storage of any oil or burning fluid, wholly or partially composed of naphtha, coal oil, petroleum or products manufactured therefrom, or of other substance or materials which will flash at a temperature below one hundred degrees Fahrenheit, or relating to the burning or carriage of any such oil or fluid which will ignite at a temperature below three hundred degrees Fahrenheit, is guilty of a misdemeanor.

LIGHTS UPON SWING BRIDGES.

§ 433a. A corporation, company or individual, owning, maintaining or operating a swing bridge across the Hudson river, who during the navigation season between sundown and sunrise, neglects to keep and maintain upon every such bridge the lights required by law, is guilty of a misdemeanor.

ARSON IN FIRST DEGREE DEFINED.

§ 486. A person who willfully burns or sets fire in the night-time, either

* * * * *

2. A car, vessel or other vehicle, or a structure or building other than a dwelling house, wherein, to the knowledge of the offender, there is at the time a human being;

Is guilty of arson in the first degree.

ARSON IN SECOND DEGREE.

§ 487. A person who,

* * * * *

4. Willfully burns, or sets on fire, in the night-time, a car, vessel or other vehicle, or a structure or building, ordinarily occupied at night by a human being, although no person is within it at the time;

Is guilty of arson in the second degree.

ARSON IN THIRD DEGREE.

§ 488. A person who willfully burns, or s

1. A vessel, car, or other vehicle, or a
erection, which is at the time insured against
intent to prejudice the insurer thereof; or,

2. A vessel, car or other vehicle, or a
erection under circumstances not amounting to
second degree;

Is guilty of arson in the third degree.

BURGLARY IN THIRD DEGREE.

§ 498. A person who either,

1. With intent to commit a crime therein, in
or room, or any part of a building; or,

2. Being in any building, commits a crime
the same;

Is guilty of burglary in the third degree.

"BUILDING" DEFINED.

§ 504. The term "building," as used in this
way car, vessel, booth, tent, shop or other ere

UNLAWFULLY ENTERING BUILDING.

§ 505. A person who, under circumstances
amounting to burglary, enters a building, or
to commit a felony or a larceny, or any malice
misdemeanor.

OTHER CASES OF FORGERY IN THIRD DEGREE.

§ 514. A person who, either,

1. Being an officer or in the employment of
partnership or individuals falsifies, or unlawfully
erases, obliterates or destroys any accounts, books
or other writing, belonging to or appertaining to
corporation, association or partnership or individual

FORGING PASSAGE TICKETS.

§ 516. A person who, with intent to defraud,
falsely alters any ticket, cheque or other paper
purporting to entitle the holder or proprietor to
any railway or in any vessel or other public conveyance,
who, with like intent, sells, exchanges or delivers
sale, exchange or delivery, or receives upon
delivery, any such ticket, knowing the same to be
counterfeited or falsely altered, is guilty of for

OFFICER OF CORPORATION SELLING, ETC., FORGED OR FRAUDULENT SCRIP, ETC.

§ 518. An officer, agent or other person employed by any company or corporation existing under the laws of this state, or of any other state or territory of the United States, or of any foreign government, who willfully and with a design to defraud, sells, pledges or issues, or causes to be sold, pledged or issued, or signs or procures to be signed with intent to sell, pledge or issue, or to be sold, pledged or issued, a false, forged or fraudulent paper, writing or instrument, being or purporting to be a scrip, certificate or other evidence of the ownership or transfer of any share or shares of the capital stock of such company or corporation, or a bond or other evidence of debt of such company or corporation, or a certificate or other evidence of the ownership or of the transfer of any such bond or other evidence of debt, is guilty of forgery in the third degree, and upon conviction, in addition to the punishment prescribed in this title for that offense, may also be sentenced to pay a fine not exceeding \$3,000.

FALSELY INDICATING PERSON AS CORPORATE OFFICER

§ 519. The false making or forging of an instrument or writing purporting to have been issued by or in behalf of a corporation or association, state or government, and bearing the pretended signature of any person, therein falsely indicated as an agent or officer of such corporation, is forgery, in the same degree, as if that person were in truth such officer or agent of the corporation or association, state or government.

TERMS "FORGE" AND "FORGING."

§ 520. The expression "forge," "forged" and "forging," as used in this chapter, includes false making, counterfeiting and the alteration, erasure, or obliteration of a genuine instrument, in whole or in part, the false making or counterfeiting of the signature of a party or witness, and the placing or connecting together with intent to defraud different parts of several genuine instruments.

COMPLETED UNISSUED INSTRUMENTS PROPERTY (LARCENY).

§ 536. All the provisions of this chapter apply to cases where the property taken is an instrument for the payment of money, an evidence of debt, a public security, or a passage ticket, completed and

issued or delivered by the maker thereof to any person as a purchaser or owner.

VALUE OF PASSENGER TICKET.

§ 546. If the thing stolen is a ticket, paper or other writing, entitling or purporting to entitle the holder or proprietor thereof to a passage upon a railway car, vessel or other public conveyance, the price at which a ticket entitling a person to a like passage is usually sold, is deemed the value thereof.

FRAUDS IN THE ORGANIZATION OF CORPORATIONS.

§ 590. A person who:

1. Without authority subscribes the name of another to or inserts the name of another in any prospectus, circular or other advertisement or announcement of any corporation or joint-stock association existing or intended to be formed, with intent to permit the same to be published, and thereby to lead persons to believe that the person whose name is so subscribed is an officer, agent, member or promoter of such corporation or association; or,

2. Signs the name of a fictitious person to any subscription for or agreement to take stock in any corporation, existing or proposed; or,

3. Signs to any such subscription or agreement the name of any person, knowing that such person does not intend in good faith to comply with the terms thereof, or under any understanding or agreement, that the terms of such subscription or agreement are not to be complied with or enforced; is guilty of a misdemeanor.

FRAUDULENT ISSUE OF STOCK, ETC.

§ 591. An officer, agent or other person in the service of any joint-stock company or corporation formed or existing under the laws of this state, or of the United States, or of any state or territory thereof, or of any foreign government or country, who willfully and knowingly, with intent to defraud, either:

1. Sells, pledges or issues, or causes to be sold, pledged or issued, or signs or executes, or causes to be signed or executed with intent to sell, pledges or issues, or causes to be sold, pledged or issued, any certificate or instrument purporting to be a certificate or evidence of the ownership of any share or shares of such company or corporation, or any bond or evidence of debt, or writing purporting to be a bond or evidence of debt of such company or corporation without being first thereto duly authorized by such company or cor-

poration, or contrary to the charter or laws under which such corporation or company exists, or in excess of the power of such company or corporation or of the limit imposed by law or otherwise upon its power to create or issue stock or evidences of debt; or,

2. Reissues, sells, pledges or disposes of, or causes to be reissued, sold, pledged or disposed of, any surrendered or canceled certificates, or other evidence of the transfer or ownership of any such share or shares, is punishable by imprisonment for a term not exceeding seven years, or by a fine not exceeding three thousand dollars, or by both.

FRAUD IN PROCURING ORGANIZATION OF CORPORATION OR INCREASE OF STOCK.

§ 592. An officer, agent or clerk of a corporation, or of persons proposing to organize a corporation, or to increase the capital stock of a corporation, who knowingly exhibits a false, forged or altered book, paper, voucher, security or other instrument of evidence to any public officer or board authorized by law to examine the organization of such corporation, or to investigate its affairs, or to allow an increase of its capital, with intent to deceive such officer or board in respect thereto, is punishable by imprisonment in a state prison not exceeding ten years.

MISCONDUCT OF DIRECTORS OF STOCK CORPORATIONS.

§ 594. A director of a stock corporation, who concurs in any vote or act of the directors of such corporation, or any of them, by which it is intended,

1. To make a dividend, except from the surplus profits arising from the business of the corporation, and in the cases and manner allowed by law; or,

2. To divide, withdraw, or in any manner pay to the stockholders or any of them, any part of the capital stock of the corporation; or to reduce such capital stock without the consent of the legislature; or,

3. To discount or receive any note or other evidence of debt in payment of an installment of capital stock actually called in, and required to be paid, or with intent to provide the means of making such payment; or,

4. To receive or discount any note or other evidence of debt with intent to enable any stockholder to withdraw any part of the money paid in by him on his stock; or,

5. To apply any portion of the funds of such corporation, except surplus profits, directly or indirectly, to the purchase of shares of its own stock; or,

to such corporations; or,

7. To receive in exchange for the shares, notes, bonds, or other evidences of debt of such corporation, shares of the capital stock, notes, bonds or other evidences of debt issued by any other stock corporation engaged in another line of business, unless authorized by law to make such exchange; is guilty of a misdemeanor.

MISAPPROPRIATION OF PROPERTY, BY OFFICER OF A CORPORATION, ETC.

§ 602. A director, officer or agent of any corporation or joint-stock association, who knowingly receives or possesses himself of any property of such corporation or association, otherwise than in payment of a just demand, and with intent to defraud, omits to make, or cause or direct to be made, a full and true entry thereof, in the books or accounts of such corporation or association; and a director, officer, agent or member of any corporation or joint-stock association who, with intent to defraud, destroys, alters, mutilates, or falsifies any of the books, papers, writings or securities belonging to such corporation or association, or makes or concurs in making any false entry, or omits or concurs in omitting to make any material entry in any book of accounts, or other record or document kept by such corporation or association, is punishable by imprisonment in a state prison not exceeding ten years, or by imprisonment in a county jail not exceeding one year, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment. (*Thus amended by chap. 662, Laws of 1892.*)

See chapter 692, Laws of 1892, also, amending this section.

MISCONDUCT OF OFFICERS AND DIRECTORS OF STOCK CORPORATIONS.

§ 610. An officer or director of a stock corporation who:

1. Issues, participates in issuing, or concurs in a vote to issue any increase of its capital stock beyond the amount of the capital stock thereof, duly authorized by or in pursuance of law; or,

2. Sells, or agrees to sell, or is directly or indirectly interested in the sale of any share of stock of such corporation, or in any agreement to sell the same, unless at the time of such sale or agreement he is an actual owner of such share, is guilty of a misdemeanor, punishable by imprisonment for not less than six months, or by a fine not exceeding five thousand dollars, or by both. (*Thus amended by chap. 692, Laws 1892.*)

MISCONDUCT OF OFFICERS AND EMPLOYEES OF CORPORATIONS.

§ 611. A director, officer, agent or employe of any corporation or joint-stock association who:

1. Knowingly receives or possesses himself of any of its property otherwise than in payment for a just demand, and with intent to defraud, omits to make or to cause or direct to be made, a full and true entry thereof in its books and accounts; or,

2. Concurs in omitting to make any material entry thereof; or,

3. Knowingly concurs in making or publishing any written report, exhibit or statement of its affairs or pecuniary condition, containing any material statement which is false; or,

4. Having the custody or control of its books, willfully refuses or neglects to make any proper entry in the stock book of such corporation as required by law, or to exhibit or allow the same to be inspected, and extracts to be taken therefrom by any person entitled by law to inspect the same or to take extracts therefrom. (*Thus amended by chap. 692, Laws 1893.*)

5. If a notice of an application for an injunction affecting the property or business of such joint-stock association or corporation is served upon him, omits to disclose the fact of such service and the time and place of such application to the other directors, officers and managers thereof; or,

6. Refuses or neglects to make any report or statement lawfully required by a public officer; is guilty of a misdemeanor. (*Thus amended by chap. 692, Laws 1892.*)

MISCONDUCT OF CORPORATE ELECTIONS.

§ 613. Any person who:

1. Votes or issues a proxy to vote at any meeting of the stockholders or bondholders, or both, of a stock corporation, upon any stock or bond, if the person in whose behalf such vote is given shall not then have the title to the stock represented by such certificate or to such bond, and shall not have it in his possession and control, notwithstanding such stock or bond shall then stand on the books of such corporation in the name of the person in whose behalf such vote is given; or,

2. Being entitled to vote at such meeting, sells his vote or issues a proxy to vote to any person for any sum of money or thing of value; or,

3. Acts as an inspector of election at any such meeting and violates an oath taken by him, in pursuance of law as such inspector,

or violates the provisions of an oath required by law to be taken by him as such inspector, or is guilty of any dishonest or corrupt conduct as such inspector, is guilty of a misdemeanor. (*Thus amended by chap. 692, Laws 1892.*)

PRESUMPTION OF KNOWLEDGE OF CORPORATE CONDITION AND BUSINESS AND OF ASSENT THERE TO BY DIRECTORS; DEFINITION.

§ 614. It is no defense to a prosecution for a violation of the provisions of this chapter, that the corporation is a foreign corporation, if it carries on business or keeps an office therefor in this state. The term "director" as used in this chapter includes any of the persons having, by law, the direction or management of the affairs of a corporation, by whatever name described. A director of a corporation or joint-stock association is deemed to have such a knowledge of the affairs of the corporation or association as to enable him to determine whether any act, proceeding or omission of its directors is a violation of this chapter. If present at a meeting of the directors at which any act, proceeding or omission of such directors in violation of this chapter occurs, he must be deemed to have concurred therein, unless he at the time causes or in writing requires his dissent therefrom to be entered on the minutes of the directors. If absent from such meeting, he must be deemed to have concurred in any such violation, if the facts constituting such violation appear on the record or minutes of the proceedings of the board of directors, and he remains a director of the corporation for six months thereafter without causing or in writing requiring his dissent from such violation to be entered on such record of minutes. (*Thus amended by chap. 692, Laws 1892.*)

(§ 615 repealed; Laws, 1882.)

SALE OF TICKETS BY AUTHORIZED AGENTS RESTRICTED.

§ 616. No person, except as allowed in section 622, shall ask, take or receive any money or valuable thing as a consideration for any passage or conveyance upon any vessel or railway train, or for the procurement of any ticket or instrument, giving or purporting to give a right, either absolutely or upon a condition or contingency, to a passage or conveyance upon a vessel or railway train, or a berth or state-room on a vessel, unless he is an authorized agent within the provisions of the last section; nor shall any person, as such agent sell or offer to sell any such ticket, instrument, berth or state-room, or ask, take or receive any consideration for any such passage,

conveyance, berth or state-room, excepting at the office designated in his appointment, nor until he has been authorized to act as such agent according to the provisions of the last section, nor for a sum exceeding the price charged at the time of such sale by the company, owners or consignees of the vessel or railway mentioned in the ticket. But a person who shall have purchased a ticket in good faith for his own passage, and shall have been prevented from using the same, may sell the ticket at any price not greater than the regular rate established therefor to another person in good faith for his own use.

UNAUTHORIZED PERSONS FORBIDDEN TO SELL CERTIFICATES, RECEIPTS, ETC., FOR THE PURPOSE OF PROCURING TICKETS.

§ 617. No person other than an agent appointed, as provided in section 615, shall sell, or offer to sell, or in any way attempt to dispose of any order, certificate, receipt or other instrument, for the purpose or under the pretence, of procuring any ticket or instrument mentioned in section 615, upon any company or line, vessel or railway train therein mentioned. And every such order sold or offered for sale by any such agent must be directed to the company, owners or consignees at their office.

PENALTY.

§ 618. A person guilty of a violation of any of the provisions of the preceding sections of this chapter is punishable by imprisonment in a state prison not exceeding two years, or imprisonment in .. county jail not exceeding six months. (*Thus amended by chap. 662, Laws of 1892.*)

CONSPIRING TO SELL PASSAGE TICKETS IN VIOLATION OF LAW.

§ 619. All persons who conspire together to sell, or attempt to sell, to any person, any passage ticket, or other instrument mentioned in sections 615 and 616, in violation of those sections, and all persons who by means of any such conspiracy, obtain or attempt to obtain, any money or other property, under the pretence of procuring or securing any passage or right of passage in violation of this chapter, are punishable by imprisonment in a state prison not exceeding five years.

CONSPIRATORS MAY BE INDICTED, NOTWITHSTANDING OBJECT OF CONSPIRACY HAS NOT BEEN ACCOMPLISHED.

§ 620. Persons guilty of violating the last section may be indicted and convicted for a conspiracy, though the object of such conspiracy has not been executed.

§ 621. All offices kept for the purpose of selling passage tickets in violation of any of the provisions of this chapter, and all offices where any such sale is made, are deemed disorderly houses; and all persons keeping any such office, and all persons associating together for the purpose of violating any of the provisions of this chapter are punishable by imprisonment in a county jail for a period not exceeding six months. (*Thus amended by chap. 662, Laws of 1892.*)

STATION MASTERS, CONDUCTORS, ETC., ALLOWED TO SELL TICKETS.

§ 623. The provisions of this chapter do not prevent the station master or other ticket agent upon any railway from selling in his office at any station on such railway, any passage tickets upon such railway; nor do they prevent any conductor upon a railway from selling such tickets upon the trains of such railway.

EMIGRANTS · SALES AND EXCHANGES OF PASSENGER TICKETS.

§ 626. A person who,

1. Sells, or causes to be sold, a passage ticket, or order for such ticket, on any railway, vehicle or vessel, to any emigrant passenger at a higher rate than one and a quarter cents per mile; or,

2. Takes payment for any such ticket or order for a ticket under a false representation as to the class of the ticket, whether emigrant or first-class; or,

3. Directly or indirectly, by means of false representations, purchases or receives from an emigrant passenger any such ticket; or,

4. Procures or solicits any such passenger having such a ticket to exchange the same for another passenger ticket, or to sell the same and purchase some other passenger ticket; or,

5. Solicits or books any passenger arriving at the port of New York from a foreign country before such passenger has left the vessel on which he has arrived, or enters or goes on board any vessel arriving at the port of New York from a foreign country, having emigrant passengers on board, for the purpose of soliciting or booking such passengers; and a person or agent of a corporation employing any person for the purpose of booking such passengers before leaving the ship;

Is guilty of a misdemeanor.

" COMPANY " DEFINED.

§ 627. The term " company," as used in this chapter, includes all corporations, whether created under the laws of this state or of the United States, or those of any other state or nation.

ISSUING FICTITIOUS BILLS OF LADING, RECEIPTS AND VOUCHERS.

§ 629. A person who,

1. Being the master, owner, or agent of any vessel, or officer or agent of any railway, express or transportation company, or otherwise being or representing any carrier, who delivers any bill of lading, receipt or other voucher, by which it appears that merchandise of any kind has been shipped on board a vessel, or delivered to a railway, express or transportation company, or other carrier, unless the same has been so shipped or delivered and is at the time actually under the control of such carrier, or the master, owner or agent of such vessel, or of some officer or agent of such company, to be forwarded as expressed in such bill of lading, receipt or voucher; or,

2. Carrying on the business of a warehouseman, wharfinger or other depository of property, who issues any receipt, bill of lading or other voucher for merchandise of any kind which has not been actually received upon the premises of such person, and is not under his actual control at the time of issuing such instrument whether such instrument is issued to a person as being the owner of such merchandise, or as security for any indebtedness; is guilty of a misdemeanor, punishable by imprisonment not exceeding one year, or by a fine not exceeding one thousand dollars, or by both. (*Thus amended by chap. 692, Laws of 1892.*)

ERRONEOUS BILLS OF LADING ON RECEIPTS ISSUED IN GOOD FAITH EXCEPTED.

§ 630. No person can be convicted of an offense under the last two sections for the reason that the contents of any barrel, box, case, cask or other vessel or package mentioned in the bill of lading receipt or other voucher did not correspond with the description given in such instrument of the merchandise received, if such description corresponds substantially with the marks, labels or brands upon the outside of such vessel or package, unless it appears that the defendant knew that such marks, labels or brands were untrue.

DUPLICATE RECEIPT MUST BE MARKED "DUPLICATE."

§ 631. A person mentioned in sections 628 and 629, who issues any second or duplicate receipt or voucher of a kind specified in those sections at a time while a former receipt or voucher for the merchandise specified in such second receipt is outstanding and uncanceled, without writing across the face of the same the word "duplicate," in a plain and legible manner, is punishable by imprisonment not exceeding one year, or by a fine not exceeding \$1,000, or by both.

SELLING, HYPOTHECATING OR PLEDGING PROPERTY RECEIVED FOR TRANSPORTATION OR STORAGE.

§ 632. A person mentioned in sections 628 and 629, who sells or pledges any merchandise for which a bill of lading, receipt or voucher has been issued by him without the consent in writing thereto of the person holding such bill, receipt or voucher, is punishable by imprisonment not exceeding one year, or by a fine not exceeding \$1,000, or by both.

PROPERTY DEMANDED BY PROCESS OF LAW.

§ 634. The last two sections (§§ 632 and 633) do not apply to any case where property is demanded by virtue of legal process

INJURIES TO RAILROAD TRACKS, ET CETERA.

§ 635. A person who:

1. Displaces, removes, injures or destroys any rail, sleeper, switch, bridge, viaduct, culvert, embankment, or structure, or any part thereof attached, appertaining to or connected with any railway, whether operated by steam, horses, or other motive power, or
2. Places any obstruction upon the track of any such railway; or
3. Willfully destroys or breaks any guard erected or maintained by a railroad corporation as a warning signal for the protection of its employees; or
4. Willfully discharges a loaded firearm, or projects or throws a stone or other missile at a railway train, or at a locomotive, car or vehicle standing or moving upon a railway; or
5. Willfully displaces, removes, cuts, injures or destroys any wire, insulator, pole, dynamo, motor, locomotive, or any part thereof, attached, appertaining to or connected with any rail-

way operated by electricity, or willfully interferes with or interrupts any motive power used in running such road, or willfully places any obstruction upon the track of such railroad, or willfully discharges a loaded firearm, or projects or throws a stone or any other missile at such railway train or locomotive, car or vehicle, standing or moving upon such railway; or,

6. Removes a journal-brass from a car while standing upon any railroad track in this state, without authority from some person who has a right to give such authority, **is punishable** as follows: First, if thereby the safety of any person is endangered, by imprisonment for not more than ten years. Second, in every other case by imprisonment for not more than three years or by a fine of not more than two hundred and fifty dollars or both. (*Thus amended by chap. 726, Laws 1895.*)

ALTERING, ETC., SIGNAL OR LIGHT FOR RAILWAY ENGINE OR TRAIN.

§ 638. A person who, with intent to bring a vessel, railway engine or railway train into danger, either,

1. Unlawfully or wrongfully shows, masks, extinguishes, alters or removes a light or other signal; or,
2. Exhibits any false light or signal;

Is punishable by imprisonment for not more than ten years.

ENDANGERING LIFE BY MALICIOUSLY PLACING EXPLOSIVE NEAR BUILDING, CAR, ETC.

§ 645. A person who places in, upon, under, against or near to, any building, car, vessel or structure, gunpowder or any other explosive substance, with intent to destroy, throw down or injure the whole or any part thereof, under such circumstances, that if the intent were accomplished, human life or safety would be endangered thereby, although no damage is done, is guilty of a felony

§ 654. A person who unlawfully and willfully destroys or injures any real or personal property of another or who without authority or permission from a person who has the right to give such authority or permission, loosens any brake or blocking of any car standing on any railroad track in this state, or without like authority or permission, puts upon or runs any hand car, or other car, on any railroad track in this state, or without like authority or permission, interferes or meddles with any brake or coupling of any car while standing or moving on any railroad track in this state, or

takes any part therein, in a case where the punishment is not specially prescribed by statute, is punishable as follows:

1. If the value of the property destroyed, or the diminution in the value of the property by the injury is more than twenty-five dollars, by imprisonment for not more than four years.

2. In any other case, by imprisonment for not more than six months, or by a fine of not more than two hundred and fifty dollars, or by both such fine and imprisonment.

3. And in addition to the punishment described therefor, he is liable in treble damages for the injury done, to be recovered in a civil action by the owner of such property, or the public officer having charge thereof. (*Thus amended by chap. 186, Laws of 1892.*)

CARRYING ANIMALS IN A CRUEL MANNER, A MISDEMEANOR.

§ 659. A person who carries, or causes to be carried in or upon any vessel or vehicle or otherwise, any animal in a cruel or inhuman manner, or so as to produce torture, is guilty of a misdemeanor.

THROWING SUBSTANCE INJURIOUS TO ANIMALS IN PUBLIC PLACES, A MISDEMEANOR.

§ 661. A person who willfully throws, drops or places, or causes to be thrown, dropped or placed upon any road, highway, street or public place, any glass, nails, pieces of metal, or other substance which might wound, disable or injure any animal, is guilty of a misdemeanor.

TRANSPORTING ANIMALS FOR MORE THAN TWENTY-FOUR CONSECUTIVE HOURS, A MISDEMEANOR.

§ 663. A railway corporation, or an owner, agent, consignee, or person in charge of any horse, sheep, cattle, or swine, in the course of, or for transportation, who confines, or causes or suffers the same to be confined, in cars for a longer period than twenty-four consecutive hours, without unloading for rest, water and feeding, during ten consecutive hours, unless prevented by storm or inevitable accident, is guilty of a misdemeanor. In estimating such confinement, the time during which the animals have been confined without rest, on connecting roads from which they are received, must be computed. If the owner, agent, consignee or other person in charge of any such animals refuses or neglects upon demand to pay for the care or feed of the animals while so unloaded or

rested, the railway company, or other carriers thereof, may charge the expense thereof to the owner or consignee and shall have a lien thereon for such expense.

DEFINITIONS.

§ 669. 1. The word "animal," as used in this title, does not include the human race, but includes every other living creature;

2. The words "torture" or "cruelty" includes every act, omission, or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted; * * * *

ENDANGERING LIFE BY REFUSAL TO LABOR.

§ 673. A person who willfully and maliciously, either alone or in combination with others, breaks a contract of service or hiring, knowing or having reasonable cause to believe, that the probable consequence of his so doing will be to endanger human life, or to cause grievous bodily injury, or to expose valuable property to destruction or serious injury, is guilty of a misdemeanor.

OFFENSES NOT OTHERWISE ENUMERATED.

§ 675. Any person who shall by any offensive or disorderly act or language, annoy or interfere with any person or persons in any place or with the passengers of any public stage, railroad car, ferry boat, or other public conveyance, or who shall disturb or offend the occupants of such stage, car, boat or conveyance, by any disorderly act, language or display, although such act, conduct or display may not amount to an assault or battery, shall be deemed guilty of a misdemeanor. A person who willfully and wrongfully commits any act which seriously injures the person or property of another, or which seriously disturbs or endangers the public peace or health, or which openly outrages public decency, for which no other punishment is expressly prescribed by this code, is guilty of a misdemeanor; but nothing in this code contained shall be so construed as to prevent any person from demanding an increase of wages, or from assembling and using all lawful means to induce employers to pay such wages to all persons employed by them, as shall be a just and fair compensation for services rendered.

Rapid Transit Act.

CHAP. 4, LAWS OF 1891, AS AMENDED BY CHAP. 556, LAWS OF 1892, CHAP. 752, LAWS OF 1894, CHAP. 519, LAWS OF 1895, AND CHAP. 729, LAWS OF 1896.

AN ACT to provide for rapid transit railways in cities of over one million inhabitants.

COMMISSIONERS OF RAPID TRANSIT; APPOINTMENTS; BOARD CONSTITUTED; VACANCIES.

SECTION 1. In each city having over one million of inhabitants, according to the last preceding national or state census, there shall be a board of rapid transit railroad commissioners in and for such city, which shall consist of the mayor of such city, the comptroller or other chief financial officer of such city, the president of the chamber of commerce of the state of New York, by virtue of his office, and the following named persons, to wit: William Steinway, Seth Low, John Claflin, Alexander E. Orr and John H. Starin. The members of said board shall be styled commissioners, of rapid transit. Vacancies which may take place in the offices so held by the persons specifically named herein as such commissioners shall be filled by a majority vote of the remaining members of said board. The board thus constituted shall have and exercise the specific authority and powers hereinafter conferred and also such other and necessary powers as may be requisite to the efficient performance of the duties imposed upon said board by this act. (*Thus amended by chap. 752, Laws 1894.*)

OATH OF COMMISSIONERS.

§ 2. Each of the said commissioners other than the mayor and comptroller or other chief financial officer of such city shall take and subscribe an oath faithfully to perform the duties of his office, which oath shall be filed in the office of the clerk of any county within which there shall be a city of the class mentioned in the first section of this act. (*Thus amended by chap. 752, Laws 1894.*)

FIRST MEETING OF BOARD; BY-LAWS AND RULES; QUORUM; RECORD OF PROCEEDINGS.

§ 3. Within twenty days after the filing of the oaths of said commissioners so required to make and file the same the commissioners of rapid transit in respect to each of such cities shall meet and organize as a board. The board when so organized, may frame and adopt by-laws not inconsistent with this act, and establish suitable rules and regulations for the proper exercise of the powers and duties hereby conferred and imposed, and may, from time to time, amend the same. Four members of the board shall constitute a quorum for the transaction of business, but a less number may adjourn meetings. The said board shall adopt a seal, and keep a record of its proceedings, which shall be a public record and be open to inspection at all reasonable times. (*Thus amended by chap. 752, Laws 1894.*)

BOARD TO DETERMINE NECESSITY OF RAILWAYS AND TO FIX ROUTES; GENERAL PLAN OF CONSTRUCTION, ETC.

§ 4. The said board upon its own motion may proceed, from time to time, to consider and determine whether it is for the interest of the public and of the city in which it is appointed, that a rapid transit railway or railways for the conveyance and transportation of persons and property should be established therein, and upon the request in writing of the local authorities of any such city at any time, the said board shall proceed forthwith to consider and determine the same questions, and in each case the said board shall conduct such an inquest and investigation as may be deemed necessary in the premises. If, after such consideration and inquest, the said board shall determine that a rapid transit railway or railways, in addition to any already existing, are necessary for the interest of the public, and such city, it shall proceed to determine and establish the route or routes thereof and the general plan of construction. Such general plan shall show the general mode of operation and contain such details as to manner of construction as may be necessary to show the extent to which any street, avenue or other public place is to be encroached upon and the property abutting thereon affected, and the concurrent votes of at least six members of the board shall be necessary for the purpose of determining and establishing such route or routes and plan of construction. The said board, from time to time, may locate the route or routes of such railway or railways over, under, upon, through and across any streets, avenues and lands within such city, including blocks between streets


streets, avenues and lands within such city and partly through blocks between streets or avenues; provided that the consent of the owners of one-half in value of the property bounded on and the consent also of the local authorities having control of that portion of a street or highway, upon which it is proposed to construct or operate such railway or railways be first obtained, or in case the consent of such property owners can not be obtained, that the determination of three commissioners appointed by the general term of the supreme court in the district of the proposed construction, given after due hearing of all parties interested, and confirmed by the court, that such railway or railways ought to be constructed or operated, be taken in lieu of the consent of such property owners; except that no public park nor any lands or places, lawfully set apart for, or occupied by, any public building of any city or county, or of the state of New York, or of the United States, nor those portions of Grand, Classon, Franklin avenues and Downing street in the city of Brooklyn, lying between the southerly line of Lexington avenue and northerly line of Atlantic avenue, nor that portion of Classon avenue in said city lying between the northerly line of Lexington avenue and southerly line of Park avenue, nor that portion of Washington avenue in said city lying between Park and Atlantic avenues, nor DeBevoise place, Irving place and Lefferts place, Lee avenue, Nostrand avenue, Waverly avenue, Vanderbilt avenue and Clinton avenue in said city of Brooklyn, nor that portion of the city of Buffalo lying between Michigan and Main streets, nor any part of Fifth avenue in the city of New York, nor that portion of any street or avenue which is now actually occupied by any elevated railroad structure, shall be occupied by any corporation to be organized under the provisions of this act for the purpose of constructing a railway in or upon any of such public parks, lands or places, or upon or along either of the said excepted streets or avenues. It shall be lawful for said commissioners to locate the route of a railway or railways, by tunnel under any such public parks, lands or places, and to locate the route of any railway to be built, under this act, across any of the streets and avenues now occupied by an elevated railroad structure in the city of New York, or across any of the streets or avenues excepted in this act at any point at which, in its discretion, the board of rapid transit railroad commissioners may deem necessary in the location of any route or routes, or under, or under and along, any of said streets or avenues now so occupied or so excepted in this act. Nothing in this act shall authorize the con-

struction of an elevated railway on Broadway south of Thirty-third street, nor on Madison avenue in the city of New York. It shall not be lawful to grant, use or occupy, for the purposes of an elevated railroad, except for the purpose of crossing the same, any portion of the following named streets and places in the city of New York, that is to say : Second avenue below Twenty-third street ; Fourteenth street, between the easterly line or side of Seventh avenue, and the westerly side of Fourth avenue; nor Eleventh street, west of Seventh avenue, nor any part of Bank street; Nassau street; Printing House square, so called, south of Franklin street; Park row, south of Tryon row; Broad street and Wall street. (*Thus amended by chap. 519, Laws of 1895.*)

TRANSMISSION OF PLANS, ETC.; APPROVAL AND CONSENT OF COUNCIL; CONSENT OF LEGAL AUTHORITIES, ETC.

§ 5. After any determination by said board of any such route or routes and of any general plan of construction of said railway or railways, the said board shall transmit to the common council of said city a copy of said plans and conclusions as adopted. It shall be the duty of such common council upon receiving such copy of plans and conclusions to appoint a day not less than one week nor more than ten days after the receipt thereof for the consideration of such plans and conclusions, and the said common council shall, on the day so fixed, proceed with the consideration thereof and may continue and adjourn such consideration, from time to time, until a final vote shall be taken thereon, as hereinafter provided. Within four weeks after the copy of such plans and conclusions adopted by the board of rapid transit railroad commissioners shall have first been received by said common council, a final vote shall be taken thereon, by ayes and nays, in the form of a vote upon a resolution to approve such plans and conclusions, and to consent to the construction of a railway or railways in accordance therewith. Upon the adoption of such a resolution by a majority vote of all the members of the common council and the approval of the mayor, and in the case of the refusal or failure of the mayor to approve such resolution, then by a two-thirds vote of all the members of the common council, the said plans and conclusions shall be deemed to have been finally consented to and adopted, and such consent shall be deemed to be the consent of the local authorities of such city; provided, that where in any such city the exclusive control of any street, road, highway or avenue which is to be used or occupied by any railway or railways constructed under the provisions of this act, is by law vested

• in any local authority other than the common council of such city; the approval of the aforesaid plans and conclusions and the consent to the construction of a railway thereunder shall be given by such local authority in place of and if required in addition to such approval and consent by said common council and with like effect. Upon obtaining the approval and consent of the local authorities as above provided, the said board of rapid transit railroad commissioners shall also, unless such approval and consent of local authorities shall have been refused, take the necessary steps to obtain, if possible, the said consents of the property owners along the line of the said route or routes. For the purposes of this act the value of the property bounded on that portion of any street or highway in, upon, over or under which it is proposed to construct or operate such railway or railways, or any part thereof, shall be ascertained and determined from the assessment-roll of the city in which the said property is situated, confirmed or completed last before the local authorities shall have given their consent as above provided. If such consents of property owners can not be obtained, the said board may, in its own name, make application to the general term of the supreme court in the judicial district in which such railway is to be constructed for the appointment of three commissioners to determine and report after due hearing whether such railway ought to be constructed and operated. Two weeks' notice of such application shall be given by daily publication thereof, Sundays and holidays excepted, in six daily newspapers published in the city where such proposed railway is to be constructed, if there be so many newspapers published in said city, and if not, then in all the daily newspapers published in said city. The newspapers in which said publication shall be made shall be designated by the general term of the supreme court to which such application is to be made on the application of the commissioners without notice. The said general term, upon due proof of the publication aforesaid, shall appoint three disinterested persons who shall act as commissioners, and such commissioners within ten days after their appointment shall cause public notice to be given in the manner directed by the said general term of their first sitting, and may adjourn from time to time until all their business is completed. Vacancies in such commission may be filled by said general term after such notice to persons interested as the general term may deem proper, and the evidence taken before as well as after such vacancy occurred shall be deemed to be properly before such commissioners. The said commissioners shall determine after public hearing of all parties interested whether such railroad ought to be



constructed and operated and shall report the evidence taken to said general term, together with a report of their determination whether such road ought to be constructed and operated, which report, if in favor of the construction and operation of such road, shall, when confirmed by said court, be taken in lieu of the consent of the property owners above mentioned. Such report shall be made within sixty days after the appointment of said commissioners, unless the said court, or a judge thereof, shall extend such time. (*Thus amended by chap. 519, Laws 1895.*)

**DETAILED PLAN; SUBWAYS FOR PIPES AND WIRES; WORK
AT POINTS OF SUB-SURFACE STRUCTURES; EXPENSES,
HOW PAID.**

§ 6. When the consents of the local authorities and the property owners, or, in lieu thereof, the authorization of the said general term of the supreme court upon the report of commissioners, shall have been obtained, the board of rapid transit railroad commissioners shall at once proceed to prepare detailed plans and specifications for the construction of such rapid transit railway or railways in accordance with the general plan of construction, including all devices and appurtenances deemed by it necessary to secure the greatest efficiency, public convenience and safety, including the number, location and description of stations and plans and specifications for suitable supports, turnouts, switches, sidings, connections, landing-places, buildings, platforms, stairways, elevators, telegraph and signal devices, and other suitable appliances incidental and requisite to what the said board may approve as the best and most efficient system of rapid transit in view of the public needs and requirements, and the said board may in its discretion include in said plans, provisions for subways or tunnels for sewer, gas or water pipes, electric wires and other conductors proper to be placed under ground, whenever necessary so to do, in order to permit of the proper construction of any railway herein provided for in accordance with the plans and specifications of the said board. Stations and station approaches may be under or over streets of the route or cross-streets. The board may, from time to time, alter such detailed plans and specifications, but always so that the same shall accord with the general plan of construction; but whenever a contract shall have been made for the construction of any railway herein provided for, no such alteration shall be made by the board without the consent of the contractor and his sureties, except as liberty shall have been reserved in such contract by said

board for such alteration. Whenever the construction of any railway, depressed way, subway or tunnel under the provisions of this act shall interfere with, disturb or endanger any sewer, water pipe, gas pipe, or other duly authorized sub-surface structure, the work of construction at such points shall be conducted in the city of New York in accordance with the reasonable requirements of the commissioner of public works, and in other cities in accordance with the reasonable requirements and under the supervision of the officer or local authority having the care of, and the jurisdiction or control over, such sub-surface structures so interfered with, disturbed or endangered. All expenses incidental to such supervision and to the work of reconstructing, readjusting and supporting any such sewer, water pipe, gas pipe, or other duly authorized sub-surface structure, shall be borne and paid by the company which shall have acquired the right, privilege and franchise to construct, maintain and operate such railway, pursuant to a sale of the same at public auction, as hereinafter provided, if any such sale shall be made by said board. Where, under the direction of the said board or in pursuance of any general plan adopted or of any contract made by the said board, galleries, ways or subways shall be constructed to contain sewers, pipes or other sub-surface structures, the said galleries, ways or subways shall be maintained by the said city and shall be in the care and charge of the said board and subject to such regulations as it shall prescribe not inconsistent with the provisions of this act, and any revenue derived therefrom shall be paid into the treasury of said city, except that where bonds shall have been issued to provide for the cost of construction of such railroads, such amounts shall be paid to the sinking fund of the city, if there be one, or if not then into the sinking fund, to be established and created out of the annual rentals of the said road, as provided in section thirty-seven of this act. Provided, however, that any person or corporation who or which, at the time of the construction of the said galleries, ways or subways, shall own pipes, subways or conduits in a street, avenue or public place in which said galleries, ways or subways shall be constructed pursuant to this act, shall be entitled to the use of such galleries, ways or subways for his or its said pipes, subways or conduits in the same manner as the said person or corporation shall be entitled by law to the use of such street, avenue or public place, and that no rent shall be charged for such use, except a reasonable charge to defray the actual cost of maintenance, unless such pipes, subways, or conduits shall be of a greater capacity than those theretofore owned by such person or corporation in said street, avenue or public place, and that, if the capacity of any such pipe, subway or conduit so placed in the said galleries, ways or subways shall be increased, the rent shall be charged only for such increased capacity; and provided, further, that the placing in any such galleries, ways or subways of the subways or conduits of any corporation owning subways or conduits for electrical conductors, shall not in any wise affect the right of such corporation to charge and demand such compensation or rent for the use of said subways or conduits by other corporations or individuals as is, or may be, permitted by law. (*Thus amended by chap. 729, Laws of 1896.*)

PUBLIC SALE OF FRANCHISE; NOTICE THEREOF; TERMS AND CONDITIONS; SUPERVISION ON BOARD AND ENGINEERS; DEPOSITS BY BIDDERS; NULLITY OF BIDS AND RIGHTS THEREUNDER; TIME FOR BEGINNING AND FINISHING ROADS; FORFEITURE AND RESALE OF FRANCHISE; TERMS AS TO ORGANIZATION OF CORPORATION, ETC.; REJECTION AND ACCEPTANCE OF BIDS; TERMS ON RE-SALES; ADJOURNMENTS; TERM OF FRANCHISE; PROVISIO AS TO EXTENSION.

§ 7. If, after having secured the necessary consents and after having prepared such detailed plans and specifications as are by this act provided for, it shall not have been determined by vote of the people as provided by sections twelve and thirteen of chapter seven hundred and fifty-two of the laws of eighteen hundred and ninety-four, that such railway or railways shall be constructed for and at the expense of such city as hereafter provided, said board shall sell at public auction in the city where said railway or railways are to be built and for the account and benefit of said city the right, privilege and franchise to construct, maintain and operate such railway or railways. Notice of the time and place of such sale shall be published three times a week for at least six successive weeks in at least three daily newspapers published in said city. The board may prescribe all such terms and conditions of sale as it may deem to be for the interest of the public and of the city in which the railway or railways are to be constructed. The advertisement of sale shall contain only so much of the said terms, plans and specifications for the construction as the said board may think proper, but such advertisement must state at what place the full terms, plans and specifications may be examined, and they shall be subject to examination under such reasonable rules and regulations as the board may prescribe. The terms of sale shall provide for the construction of the railway or railways under the supervision of the board, and for the approval of an engineer or engineers to be appointed, from time to time, by the board, and the corporation or corporations to be organized for the purpose of constructing and operating such railway or railways as in this act provided shall pay such engineer or engineers such salary as may, from time to time, be fixed by the said board of rapid transit railroad commissioners. Such engineer or engineers shall hold their office at the pleasure of the said board. The terms of sale shall require the successful bidder to deposit with the comptroller or chief fiscal officer of the city, in cash or approved securities, such amount as the board may deem sufficient to constitute a guarantee of full compliance with the terms of sale by the purchaser and by the corporation to be formed for the purpose of building and operating said railway as hereinafter provided. Said bids and all rights which may have been acquired thereunder shall become null and void and of no effect, at the option of said board, should there be a failure to organize a corporation to exercise such rights, privileges and franchises as required by said terms of sale and this act, or for any violation of any of the requirements of said terms of sale which should be complied with before such corporation is organized, and thereupon any deposit which may have been made pursuant to such terms of sale shall be paid into the treasury of such city upon a certificate being made and filed by said board with the public

officer with whom such deposit shall have been made, that said bid, and all rights which may have been acquired thereunder, have become null and void and of no effect; and said rights, privileges and franchises shall be again sold by said board, subject to all the provisions of this act regulating such sales. The terms of sale shall require the construction of the road to be begun within a time to be specified in said terms of sale, and to be finished within a certain time thereafter, to be specified therein, and may prescribe the time within which portions of the same shall be begun and finished. The said terms of sale may reserve to the board the power to extend the times for the commencement and completion of the construction of said railway, or of portions of the same, if, in its discretion, the said board deem such extension to be for the best interests of the city. In case the corporation formed for the purpose of constructing said railway shall fail to begin or finish the construction within the times for those purposes respectively limited, all rights, privileges and franchises of such corporation to maintain and operate said railway shall be forfeited, and upon such forfeiture being adjudged by the court in a suit brought for that purpose in the name of the mayor, aldermen and commonalty of the city of New York, or such other appropriate corporate title of said city or by said board of rapid transit railroad commissioners, then the said board shall have power to advertise and resell said rights, privileges and franchises and so much of the road as shall have been constructed by such corporation; such suit shall have preference over all other cases in all courts; and the proceeds of such resale shall be applied first to the payment of the expenses of the resale, and then to the discharge of any liens which may have been created upon such property, and the balance shall be paid over to the said corporation. The terms of sale must provide for the organization by the purchaser or purchasers of such rights, privileges and franchises of a corporation to exercise the same, and to construct, maintain and operate such rapid transit railway or railways, with the powers and subject to the duties and liabilities granted or imposed by this act. The said terms of sale must also specify the amount of the capital of any such corporation, and number of shares of capital stock which such corporation shall be authorized to issue, the percentage to be paid in cash by the subscribers on subscribing for such shares, the maximum amount of the bonded indebtedness which such corporation be authorized to incur, and which may be secured by mortgage upon its property and franchises, and the rates of fares and freights which such corporation may charge and collect for the carriage of persons and property. But the rate of fare for any passenger on said railway from any point on the same northward or southward within the city of New York shall not exceed five cents under any provision of this act. The said board may, if it considers that the public interests require it to do so, reject all bids and readvertise the said rights, privileges and franchises for sale, with the same or different terms of sale, as often as it may deem necessary in the interests of such city, and shall finally accept that bid, which under all circumstances, in its opinion, is most advantageous to the public and such city; and no bid shall be accepted without the concurrent vote of six members of the board. The terms of sale on any such resale must contain all the provisions required by this act to be

inserted in the original terms of sale. Such sale may be adjourned from time to time at the discretion of the board. All sales of such rights, privileges and franchises shall be made for a definite term of years, but the expiration of the term, if sold for a term of years, shall not impair any mortgage or other lien upon the property of such corporation or the rights of any creditor or creditors of such corporation; provided, however, that nothing herein contained shall be so construed as to extend the term for which such rights, privileges and franchises are sold. (*Thus amended by chap. 752, Laws 1894, and chap. 519, Laws 1895.*)

RE-SALE OF FRANCHISE AFTER EXPIRATION OF TERM; PURCHASERS; NEW CORPORATION.

§ 8. Within one year, and not less than six months prior to the expiration of any term for which such rights, privileges and franchises shall have been sold, said board shall proceed to resell the right to maintain and operate the said railway. Such sale shall be made in the manner prescribed for the original sale, and the board is empowered to make suitable provisions for securing to the corporation then operating such railway or railways suitable compensation for the railroad structure and appurtenances, and for any other property, real or personal which the said corporation may own or of which it may be vested at the expiration of the term for which such rights, privileges and franchises were sold. Any corporation theretofore organized under the provisions of this act may be a purchaser on such re-sale; but if no such corporation be the purchaser, a new corporation shall be formed to maintain and operate said road in the manner prescribed for the organization of a corporation on the original sale, except that the plans and specifications according to which said railway has been constructed need not be set out at large, but may be referred to as forming part of the articles of association of said new corporation.

OFFICES AND ASSISTANTS FOR BOARD, ETC.

§ 9. The said board may rent such offices and employ such engineers, attorneys and other persons, from time to time, as it may, in its discretion, deem necessary to the proper performance by it of its duties as in this act prescribed. It may sue in the name and behalf of the city for which it acts as a board. It may in the name of and in behalf of the said city bring action of specific performance or may apply by mandamus to compel the performance within its city by any corporation or person of any duty or obligation with reference to or aris-

ing out of the construction or operation of any railroad under, or by reason of, any grant made or right acquired under this act or the acts amendatory hereof or supplementary hereto, or out of or by reason of any contract made or authorized by any board of rapid transit commissioners within its city, or it may in behalf of and in the name of said city bring actions to recover damages for any violation of contract or duty, or for any wrong committed by any such corporation or person by reason of any non-performance or violation of duty under the provisions of this act, or under any contract or stipulation made in pursuance of any provisions of this act. Every action or proceeding brought by the said board, and every action or proceeding in which an injunction is had or sought against the board or the said city, or against any corporation or person who or which shall have entered into a contract under the provisions of this act, or any act supplementary hereto, or amendatory hereof, by reason of any act or thing done, proposed or threatened under or by virtue of any provision of this act, or any act supplementary hereto, or amendatory hereof, or is sought against any corporation or person claiming or claiming to act under any grant or franchise under this act, or any act supplementary hereto, or amendatory hereof, and every action or proceeding in which the constitutionality of any part of this act, or of any act supplementary hereto, or amendatory hereof, shall or may be brought in question, shall have a preference above all causes not criminal on the calendar of every court, and may be brought on for trial or argument upon notice of eight days for any day of any term on which the court shall be in session. (*Thus amended by chap. 519, Laws 1895.*)

APPROPRIATIONS FOR BOARD; PROCEEDINGS UPON FAILURE TO APPROPRIATE AMOUNT; LIABILITY OF CITY; AUDIT AND PAYMENT OF EXPENDITURES; REVENUE BONDS, ISSUE OF, ETC.; REPAYMENT OF EXPENSES; COMPENSATION OF COMMISSIONERS; STATED IN TERMS OF SALE

§ 10. The board of estimate and apportionment or other board or public body on which is imposed the duty, and in which is vested the power, of making appropriations of public moneys for the purposes of the city government in any city in which it is proposed to construct such railway or railways shall, from time to time, on requisition duly made by the board of rapid transit railroad commissioners, appropriate such sum or sums of money as may be requisite and necessary to properly enable it to do and perform, or cause to be done and performed, the duties herein prescribed, and to provide for the compensation of such commissioners, and such appropriation shall be made

forthwith upon presentation of a requisition from the board of rapid transit railroad commissioners, which shall state the purposes for which such moneys are required by the said board. In case the said board of estimate and apportionment or such other board or public body fail to appropriate such amount as the board of rapid transit railroad commissioners deem requisite and necessary, the said board of rapid transit railroad commissioners may apply to the general term of the supreme court in the department in which the railway is to be or has been constructed, on notice to the board of estimate and apportionment, or such other board or public body aforesaid, to determine what amount shall be appropriated for the purposes required by this section, and the decision of said general term shall be final and conclusive; and no city shall be liable for any indebtedness incurred by the said board of rapid transit railroad commissioners in excess of such appropriation or appropriations. It shall be the duty of the auditor and comptroller of any such city, after such appropriations shall have been duly made, to audit and pay the proper expenditures and compensation of said commissioners upon vouchers therefor, to be furnished by the said commissioners, which payments shall be made in like manner as payments are now made by the auditor, comptroller, or other public officers, of claims against and demands upon such city; and for the purpose of providing funds with which to pay the said sums, the comptroller or other chief financial officer of said city is hereby authorized and directed to issue and sell revenue bonds of such city in anticipation of receipt of taxes, and out of the proceeds of such bonds to make the payments in this section required to be made. The amount necessary to pay the principal and interest of such bonds shall be included in the estimates of moneys necessary to be raised by taxation to carry on the business of said city, and shall be made a part of the tax levy for the year next following the year in which such appropriations are made. All expenses of the said board of rapid transit railroad commissioners, including the compensation of said commissioners, so incurred and paid by any city as in this section provided, and for which any city shall be liable, shall be repaid, with interest, by the bidder or bidders at the public sale of the rights, privileges and franchises, as in this act provided, in case said board shall so sell the same, whose bid shall be accepted by the board of rapid transit railroad commissioners, and the terms of such sale shall specify the time when such payment shall be made, as well as the amount thereof. The commissioners, other than the mayor and comptroller or other chief financial officer

of such city, shall be paid a reasonable compensation for the duties performed by them from time to time, under the provisions of this act. The amount of such compensation shall be determined by the general term of the supreme court in the department in which said city shall be located upon application by said board after notice to the mayor of such city. (*Thus amended by chap. 752, Laws 1894.*)

CORPORATIONS, HOW ORGANIZED; ARTICLES OF ASSOCIATION; APPROVAL AND FILING THEREOF; SUBSCRIPTIONS TO STOCK; MEETING OF SUBSCRIBERS; PREFERENCE IN SUBSCRIPTIONS, ETC.

§ 11. A corporation or corporations to construct and operate such rapid transit railway or railways, and to enjoy and exercise the rights, privileges and franchises in this act provided for shall be created and organized in the manner following: Articles of association shall be duly signed and acknowledged by not less than twenty-five persons, and such articles shall set forth the name of the proposed corporation and duration thereof. Said articles must also state that they are made and filed under and in pursuance of this act for the purpose of taking and exercising the rights, privileges and franchises so purchased as aforesaid, according to the terms of sale; and such terms of sale and all plans and specifications must be made a part of said articles, annexed thereto and filed therewith. The said articles must also contain such other provisions as the said board may deem requisite and necessary, not inconsistent with the terms of sale or with this act. The said articles must be approved by said board, by the concurrent vote of four members, and its approval must be indorsed thereon and attested by the seal of the board and the signature of its presiding officer, and must then be filed in the office of the secretary of state, and a duly certified copy, or a duplicate thereof, must be filed in the office of the clerk of the county in which such railway or railways are to be constructed. Immediately after the articles of association shall have been so made, approved and filed, the board of rapid transit railroad commissioners shall cause books of subscription to the capital stock of any such corporation to be opened, and shall give public notice of the opening of such books and of the time and place at which subscriptions will be received; and when the full amount of such capital stock shall have been subscribed by not less than fifty persons, and such percentage of the amount subscribed as may have been fixed by the board in the terms of sale shall have been paid in, in cash, to such bank or trust company as the board may select, the said board shall call a meeting

of the subscribers for the purpose of organizing the corporation, serving upon or mailing to each subscriber a notice of such meeting at least ten days before the time appointed for holding the same; and the person or persons whose bid shall have been accepted by the said board of rapid transit railroad commissioners shall, if they elect to become subscribers to the capital stock of such corporation, be entitled to a preference for themselves and their associates in subscribing for, and in the allotment of the shares of capital stock of such corporation.

ELECTION OF FIRST DIRECTORS; BY-LAWS TO BE ADOPTED.

§ 12. At such meeting of subscribers thirteen directors of the corporation shall be elected, each of whom shall be a holder in his own right of at least one hundred shares of the capital stock of the corporation, and the board of rapid transit railroad commissioners shall appoint the the* inspectors of the first election. Each share of stock shall entitle the holder to one vote for each director. The directors so selected shall hold office for one year and until others are elected in their places. At such meeting by-laws must be adopted not inconsistent with this act, which by-laws shall, among other things, provide for:

1. The term of office of the directors elected at any subsequent meeting of stockholders, which term shall not exceed one year.
2. The manner of filling any vacancy which may occur in any office or in the board of directors.
3. The time and place of the annual meeting of stockholders.
4. The manner of calling and holding special meetings of stockholders.
5. The number of stockholders who shall attend either in person or by proxy, at any stockholders' meeting in order to constitute a quorum.
6. The officers of a corporation, the manner of their election by the directors, and their duties and powers, and among which officers there shall be included a president, a secretary and a treasurer.
7. The manner of electing or appointing inspectors of election.
8. The manner of amending the by-laws.

The by-laws may also provide for the forfeiture of shares for the non-payment of calls and for such other matters as may be deemed proper by the board of rapid transit railroad commissioners and they must be approved by a resolution of said board.

* So in the original.

**RECORD OF PROCEEDINGS ; CERTIFICATE OF ORGANIZATION ;
RECORD AND CERTIFICATE TO BE FILED ; PAYMENT OF
DEPOSIT TO CORPORATION ; REPAYMENT TO PURCHASER
OF FRANCHISE**

§ 13. Within ten days after the said subscribers' meeting a record of the proceedings thereof, containing a copy of the subscription list, a copy of the by-laws adopted, and the names of the directors chosen, shall be prepared and duly certified by the person presiding over, and person acting as secretary of said meeting. There shall be attached thereto a certificate of the board of rapid transit railroad commissioners, attested by its seal and the signature of its presiding officer, that said board has approved the by-laws adopted at the subscribers' meeting, and that said corporation has been organized in accordance with the provisions of this act. The said record and certificate shall be filed by said board in the office of the secretary of state, and a duly certified copy or duplicate thereof shall be filed in the office of the clerk of the county in which said railway or railways are to be built, and thereupon and upon the payment to the state treasurer of a tax of one-eighth of one per centum of the par value of the capital stock of said corporation, such corporation shall be deemed to be fully organized. A copy of said certificate, duly certified by the secretary of state, or by the county clerk in whose office it is filed, shall be presumptive evidence of the due organization of such corporation in all courts and proceedings. Upon the production of the certified copy of said certificate, and upon the order of such corporation, the bank or trust company in which the percentage of subscriptions to the capital stock shall have been deposited, shall pay over to any such corporation the amount of such deposit, and said corporation shall repay to the purchaser or purchasers at the sale provided for in section seven of this act, the expenses paid by him or them to the city pursuant to the provisions of the terms of sale, with interest to the date of such repayment.

**MODIFICATION OF PLANS, ETC. ; CERTIFICATES THEREOF ;
FILING OF CERTIFICATE AND MODIFIED PLAN.**

§ 14. The said board of rapid transit railroad commissioners, if, in their judgment, the public interest requires, may, at any time after the full organization of any such corporation, by the concurrent vote of four members, authorize such corporation to alter or add to the detailed plans and specifications contained in its articles or association, provided the plans and specifications as so modified do not change the route or routes of said railway and be not inconsistent

with the general plan of construction, adopted under the provisions of section four of this act, and provided also such modifications be first approved by a vote of two-thirds of the directors of said corporation present and voting at any special meeting duly called for the purpose, by written notice stating the nature of the business to be transacted at said meeting. When such authorization by the board of rapid transit railroad commissioners shall have been given, a certificate shall be prepared, and acknowledged by the president and a majority of the directors of said corporation, stating the nature of the modification, and that the same has been approved by the board of directors in the manner above set forth, to which certificate there shall be attached a copy of so much of the original plans and specifications as are to be affected by the modification, and also the plans and specifications as modified. There shall also be contained in such certificate a declaration of the approval of said board of rapid transit railroad commissioners, attested in the same manner as the certificate of full organization. The said certificate, plans and specifications shall then be filed in the office of the secretary of state, and a certified copy or duplicate thereof shall be filed in the office of the clerk in which the articles of association are filed. And thereupon said corporation shall be authorized to construct its railway or railways and appurtenances in accordance with such modified plans and specifications.

PRINCIPAL OFFICE AND PLACE OF TAXATION.

§ 15. Every corporation organized under this act shall have its principal office and be taxed on its property in the city where its railway or railways are situated. But no taxes of any kind or nature shall be levied or imposed upon that portion of any railway constructed under this act which is in process of construction, and not in actual operation for the transportation of passengers or freight, but this exemption from taxation during construction shall not apply to any portion or portions of said railway after the date on which said portion or portions shall have been opened to the public for the transportation of passengers or freight. (*Thus amended by chap. 556, Laws 1892.*)

BOARD OF DIRECTORS; VACANCIES AND QUALIFICATIONS; EXHIBITION OF BOOKS.

§ 16. The affairs of said corporation shall be managed by a board of thirteen directors, who shall be chosen annually, by a majority of the votes of the stockholders voting at such election, in such manner as may be prescribed in the by-laws of the corporation, and they may and shall continue to be directors until others are elected in their places. In the

election of directors, each stockholder shall be entitled to one vote for each share of stock held by him. Vacancies in the board of directors shall be filled in such manner as shall be prescribed by the by-laws of the corporation. No person shall be a director unless he shall be a stockholder owning one hundred shares of stock absolutely in his own right, and qualified to vote for directors at the election at which he shall be chosen. At every election of directors the books and papers of such corporation shall be exhibited to the meeting, provided a majority of the stockholders present shall require it.

PAYMENT OF SUBSCRIPTION TO STOCK.

§ 17. The directors shall require the subscribers to the capital stock of the company to pay the amount by them respectively subscribed in money at such times and in such installments as they may deem proper, not inconsistent with the by-laws and the articles of association.

PERSONAL LIABILITY OF STOCKHOLDERS; NOTICE AND COMMENCEMENT OF ACTION; RECOVERY BY STOCKHOLDER.

§ 18. Each stockholder of any corporation formed under this act shall be individually liable to the creditors of such corporation, to an amount equal to the amount unpaid on the stock held by him, for all the debts and liabilities of such corporation, until the whole amount of the capital stock so held by him shall have been paid to the corporation; and all the stockholders of any such corporation, shall be jointly and severally liable for the debts due or owing to any of its laborers and servants, other than contractors, for personal services, for thirty days' service performed for such corporation, but shall not be liable to an action therefor before an execution or executions shall be returned unsatisfied in whole or in part against the corporation, and the amount due on such execution or executions shall be the amount recoverable, with costs, against such stockholders; before such laborer or servant shall charge such stockholder for such thirty days' service, he shall give him notice in writing within twenty days after the performance of such service, that he intends so to hold him liable, and he shall commence such action therefor within thirty days after the return of such execution unsatisfied, as above mentioned; and every such stockholder against whom any such recovery by such laborer or servant shall have been had, shall have a right to recover the same of the other stockholders in said corporation, in ratable proportion to the amount of the stock they shall respectively hold.

TRANSFER OF STOCK.

§ 19. The stock of every corporation formed under this act shall be deemed personal estate, and shall be transferable in the manner prescribed

by the by-laws of the company, but no share shall be transferable until all previous calls thereon shall have been fully paid in.

INCREASE OR REDUCTION OF CAPITAL; NOTICE TO STOCKHOLDERS; STATEMENT TO BE MADE AND FILED.

§ 20. Any corporation formed under this act may increase or reduce its capital stock from time to time upon obtaining the approval of the board of rapid transit railroad commissioners by a concurrent vote of four members thereof. Such increase or reduction must be approved by a vote in person, or by proxy, of two-thirds in amount of all the stockholders of the corporation, at a meeting of such stockholders called by the directors of the corporation for that purpose, by a notice in writing to each stockholder, to be served on him in the manner provided for service of the notice of the subscribers' meetings provided for in section eleven of this act. Such notice shall state the time and place of the meeting, and its object, and the amount to which it is proposed to increase or reduce the capital stock. A statement of the increase or reduction shall be signed by the president and a majority of the directors and shall be filed in the office of the secretary of state and of the clerk of the county in which the original articles of association are filed. There must be attached thereto a certificate of the approval of said board of rapid transit railroad commissioners attested in the same manner as the certificate of full organization.

LIABILITY OF CERTAIN HOLDERS OF STOCK

§ 21. No person holding stock in any such corporation, as executor, administrator, guardian or trustee, and no person holding such stock as collateral security, shall be personally subject to any liability as a stockholder of such corporation; but the person pledging such stock shall be considered as holding the same, and shall be liable as a stockholder accordingly; and the estate and funds in the hands of such executor, administrator, guardian or trustee shall be liable in like manner, and to the same extent, as the testator or intestate or the ward or person interested in such trust fund would have been if he had been living and competent to act, and held the same stock in his own name.

LIABILITY OF CORPORATION TO EMPLOYEE; OF CONTRACTORS; NOTICE TO BE GIVEN; ACTION WHEN COMMENCED.

§ 22. As often as any contractor for the construction of any part of a railway, which is in progress of construction under the provisions of this act, shall be indebted to any laborer for thirty or any less number of days' labor performed in constructing said road, such laborer may give notice of such indebtedness to said corporation in the manner herein

provided; and said corporation shall thereupon become liable to pay such laborer the amount so due him for such labor, and an action may be maintained against said corporation therefor. Such notice shall be given by said laborer to said corporation within twenty days after the performance of the number of days' labor for which the claim is made. Such notice shall be in writing, and shall state the amount and number of days' labor, and the time when the same was performed and the name of the contractor from whom due, and shall be signed by such laborer or his attorney, and shall be served on an engineer, agent or superintendent employed by such corporation having charge of the section of the road on which such labor was performed personally, or by leaving the same at the office or usual place of business of such engineer, agent or superintendent with some person of suitable age. But no action shall be maintained against any corporation under the provisions of this section, unless the same be commenced within thirty days after notice is given to such company by such laborer as above provided.

REAL ESTATE; PROCEEDINGS TO ACQUIRE TITLE.

§ 23. Every such corporation shall have the right to acquire and hold such real estate or easement or other interest therein, or rights appertaining thereto, as may be necessary to enable it to construct, maintain and operate the said railway, or railways, and such as may be necessary for stations, depots, engine-house, car-houses, machine-shops and other appurtenances specified in the articles of association; and in case any such corporation can not agree with the owner or owners of such property it shall have the right to acquire title to the same in pursuance of the terms of and in the manner prescribed in title one of chapter twenty-three of the Code of Civil Procedure, known as the condemnation law.

CORPORATE POWERS; VOLUNTARY GRANTS; PURCHASE OF PROPERTY; MAY CROSS AND UNITE WITH OTHER ROADS; COMPENSATION; TRANSPORTATION OF PERSONS AND PROPERTY; ENTRY UPON STREETS, ETC.; CONSTRUCTION AND MAINTENANCE OF ROAD; EXCAVATIONS; PARKS AND STREETS, USE OR OCCUPANCY OF; RIGHT TO BORROW MONEY AND ISSUE BONDS.

§ 24. Every corporation formed under this act shall have power:

1. To take and hold such voluntary grants of real estate and other property as shall be made to it, to aid in the construction, maintenance and accommodation of its railway or railways, but the real estate received by voluntary grant shall be held and used for the purpose of such grant only

2. To purchase, lease, hold and use all such real estate and other property as may be necessary for the construction and maintenance of its railway or railways, and the stations or other accommodations necessary to accomplish the objects of its incorporation; but nothing herein contained shall be held as repealing or in any way affecting the act, entitled, "An act authorizing the construction of railroads upon Indian lands," passed May twelve, eighteen hundred and thirty-six.

3. To cross, intersect, join and unite its railway or railways with any other railway at any point on its route and upon the grounds of such other railway company, with the necessary turnouts, sidings and switches and other conveniences in furtherance of the object of its connections. And every corporation whose railway is or shall be hereafter intersected by any new railway, shall unite with the owners of such new railway in forming such intersections and connections, and grant the facilities aforesaid; and if the two corporations cannot agree upon the amount of compensation to be made therefor, the same shall be ascertained and determined by commissioners to be appointed by the court, in the manner provided in this act in respect to acquiring title to real estate. And if the two corporations cannot agree upon the points and manner of such crossings and connections, the board of rapid transit railroad commissioners shall determine the same on the application of either corporation.

4. To take and convey persons and property on its railway or railways by the power or force of steam, or by any motor other than animal power, and to receive compensation therefor not inconsistent with the provisions of this act, and the terms of sale under which the said corporation shall have acquired its rights, privileges and franchises.

5. To enter upon and underneath the several streets, avenues, public places and lands designated by the said board of rapid transit railroad commissioners, and enter into and upon the soil of the same; to construct, maintain, operate and use, in accordance with the plan adopted by said board, a railway or railways upon the route or routes, and to the points decided upon, and to secure the necessary foundations and erect the columns, piers and other structures which may be required to secure safety and stability in the construction and maintenance of the railways constructed upon the plan adopted by the said board, and which may be necessary for operating the same, except that nothing in this act shall authorize the construction of a railway crossing the track of any steam railway in actual operation at the grade thereof, and it shall be lawful to make such excavations and openings along the route through which such railway or railways shall be constructed as shall be necessary from time to time; in all cases the surfaces of said streets around such foundations, piers and columns shall be restored to the

condition in which they were before such excavations were made, as near as may be, and under the direction of the proper local authorities; and in all cases the use of streets, avenues, places and lands designated by the said board, and the right of way through the same, for the purpose of a railway or railways, as herein authorized and provided, shall be considered, and is hereby declared to be a public use, consistent with the uses for which the roads, streets, avenues and public places are publicly held; but no such corporation shall have the right to acquire the use or occupancy of public parks or squares in such county, or the use or occupancy of any of the streets or avenues, except such as may have been designated for the route or routes of such railway, and except such temporary privileges as the proper authorities may grant to such corporations to facilitate such construction.

6. From time to time to borrow such sums of money as may be necessary for completing and finishing or operating their railroad, and to issue and dispose of their bonds for such purposes; but the amount of such bonds outstanding at any one time shall not exceed the amount limited by the articles of association. (*Thus amended by chap. 556, Laws of 1892.*)

EMPLOYEES TO WEAR BADGES.

§ 25. Every conductor, baggage master, engineer, brakeman or other servant of any railroad corporation employed in a passenger train, or at stations for passengers, shall wear upon his hat or cap a badge, which shall indicate his office, and the initial letter of the style of the corporation by which he is employed. No conductor or collector, without such badge, shall be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office; and no officer or servant without such badge shall have authority to meddle or interfere with any passenger, his baggage or property.

CARRYING OF MAILS ; EXTRA TRAINS THEREFOR.

§ 26. Any corporation or person operating a railroad under any provision of this act or of any act supplementary hereto or amendatory hereof shall, when applied to by the postmaster-general, convey the mails of the United States on their road or roads respectively; and in case the parties cannot agree as to the rate of transportation therefor, and as to the time, rate of speed, manner and conditions of carrying the same, it shall be lawful for the governor of this state to appoint three commissioners, who, or a majority of them, after fifteen days' notice in writing of the time and place of meeting to the corporation, shall determine and fix the prices, terms and conditions aforesaid; but such price shall not be less

for carrying said mails in the regular passenger trains than the amount which such corporation would receive as freight on a like weight of merchandise transported in their merchandise trains, and a fair compensation for the post-office car. And in case the postmaster-general shall require the mail to be carried at other hours, or at a higher speed than the passenger trains are run, the corporation shall furnish an extra train for the mail and be allowed an extra compensation for the expenses and wear and tear thereof, and for the service to be fixed as aforesaid. (*Thus amended by chap. 519, Laws of 1895.*)

EJECTION OF PASSENGERS FROM CARS.

§ 27. If any passenger shall refuse to pay his fare, it shall be lawful for the conductor of the train and the servants of the corporation to put him and his baggage out of the cars, using no unnecessary force, at any usual stopping place, on stopping the train.

RUNNING OF CARS AND CONVEYANCE OF FREIGHT AND PASSENGERS.

§ 28. Every such corporation shall start and run its cars for the transportation of passengers and property at regular times, to be fixed by public notice; and shall furnish sufficient accommodations for the transportation of all such passengers and property as shall, within a reasonable time previous thereto, be offered for transportation at the place of starting and the junction of other railroads, and at usual stopping places established for receiving and discharging way passengers and freight for that train; and shall take, transport and discharge such passengers and property at, from and to such places, on the due payment of the freight or fare legally authorized therefor, and shall be liable to the party aggrieved in an action for damages, for any neglect or refusal in the premises.

INTOXICATION OF EMPLOYEES.

§ 29. If any person shall, while in charge of a locomotive engine running upon the railway of any such corporation, or while acting as the conductor of a car or train of cars on any such railroad, be intoxicated, he shall be deemed guilty of a misdemeanor.

§ 30. If any person or persons shall willfully do, or cause to be done, any act or acts whatever, whereby any building, construction or work of or on any part of any railroad either constructed or operated under any provision of this act or of any act supplementary hereto or amendatory hereof, or under any provision of any contract made under this act or any act supplementary hereto or amendatory hereof, or any engine, machine or structure, or any matter or thing appertaining to the same,

shall be stopped, obstructed, impaired, weakened, injured, or destroyed, the person or persons so offending shall be guilty of a misdemeanor, and shall forfeit and pay to the owner of such building, construction, works, engine, machine, structure, matter or thing treble the amount of damages sustained in consequence of such offense. (*Thus amended by chap. 519, Laws of 1895.*)

DISSOLUTION BY LEGISLATURE

§ 31. The legislature may, at any time annul or dissolve any corporation formed under this act; but such dissolution shall not take away or impair any remedy given against any such corporations, its stockholders or officers, for any liability which shall have been previously incurred.

POWER TO FIX CONNECTING ROUTES AND EXTEND LINES; ADDITIONAL TRACKS AND FACILITIES; PLANS, COMPENSATION, ETC.

§ 32. The said board of rapid transit railroad commissioners may also from time to time, upon application of any railway corporation owning or actually operating a railroad wholly or in part within the limits of the city in which the said board has power to act, if in the judgment of said board the public interests so demand, by the concurrent vote of six of the members of said board fix and determine the route or routes by which any such railway company may connect with other steam railways, or the stations thereof, or with steam ferries, or may extend its lines within said city, and may authorize any such railway company to lay an additional track or tracks on, above, under or contiguous to a portion or the whole of the route or routes of its railway or railways within said city and to acquire terminal or other facilities necessary for the accommodation of the traveling public on any street or place except the place now known as Battery park on which said railway shall be located; and may also authorize any such railway company to lay its tracks and operate its railway to any terminal or terminals within the said city, and to transport over the same passengers or freight or both, and to run over the same either passenger trains or freight trains or mixed trains; and the said board shall fix and determine the locations and plans of construction of the railways upon such route or routes and of such tracks and facilities, the times within which they shall be respectively constructed, the compensation to be made therefor to the city by said railway company, and such other terms, conditions and requirements as to the said board may appear just and proper,—provided, however, that every such determination, authorization and license shall be made upon the condition that such corporation shall, from the time of the commencement of

the operation of any such railway or track or tracks under such determination, authorization or license, annually pay to the said city a sum or rental, and that the amount of such sum or rental for a period of not more than thirty-five years, beginning with such operation of any such railway track or tracks, shall be prescribed by the said board in such determination, authorization or license, and that every such determination, authorization and license shall provide for the readjustment of the amount of such sum or rental at the expiration of the period for which the same shall be so prescribed and for readjustment from time to time in the future of the amount of such annual payment at intervals each of not more than thirty-five years. A certificate shall be prepared by the said board, attested by its seal and the signature of its presiding officer, setting forth in detail the action taken by the said board with respect to such connecting or extended route or routes and such tracks and facilities, and the terms, conditions and requirements aforesaid, including provisions as to the said annual payments and the future readjustments thereof. A like certificate shall be prepared in like manner upon every modification of the terms of the contract as hereinafter provided. Each such certificate shall prescribe the terms and conditions of the readjustments of such annual payments and may provide for the determination of such amount upon such readjustments by arbitration or by the supreme court. Such certificate shall be delivered to said railway corporation upon the receipt by said board of a written acceptance of said terms, conditions and requirements, duly executed by said railway corporation, so as to entitle it to be recorded. The said certificates shall be filed in the office of the secretary of state, and a duly certified copy thereof shall be filed in the office of the clerk of the county in which the said city is situated, and thereupon, and upon fulfillment by such railway corporation, so far as it relates to such connections, additional track or tracks, or facilities, of such of the requirements and conditions as are necessary to be fulfilled in such cases, under section eighteen of article three of the constitution of this state, and upon fulfillment by such railway corporation of such other terms, conditions and requirements enumerated in said certificate, as the said board may require to be fulfilled as a condition precedent to commencing said work, said railway company shall in such cases possess in addition to existing franchises all the powers conferred by this act upon corporations specially formed thereunder, with respect to its railways authorized to be constructed as aforesaid, and when any route or routes, additional track or tracks, or terminal or other facilities, shall be so fixed and determined, and a certificate as aforesaid shall have been duly filed, such railway company may construct the same with all the rights, and with like effect as though the same had been a part of the original route

of its railway then in actual operation. The certificate or certificates prepared by the board of rapid transit railroad commissioners as aforesaid when delivered to and accepted by such railway corporation, shall be deemed to constitute a contract between the said city and said railway company according to the terms of the said certificate; and such contract shall be enforceable by the said board acting in the name of and in behalf of the said city or by the said company according to the terms thereof, but subject to the provisions of this act. The terms of such contract may from time to time, with the consent of such company, be modified by the board of rapid transit railroad commissioners by the vote of six of its members. But the construction and operation of such connections, extensions, additional track or tracks, or facilities, are hereby authorized only upon the condition that the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having the control of that portion of a street or highway upon, above or under which it is proposed to construct or operate the same, be first obtained, or in case the consent of such property-owners can not be obtained, the general term of the supreme court in the district in which they are proposed to be constructed, may, upon application, in the same manner, and on the same notice specified in section five of this act, appoint three commissioners, who shall determine after a hearing of all parties interested, whether the same ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property-owners. (*Thus amended by chap. 519, Laws of 1895.*)

REMOVAL OF HORSE RAILWAY TRACKS, ETC.; COSTS AND CHARGES.

§ 33. Wherever or whenever the route selected by the said board of rapid transit railroad commissioners for the construction of such railway shall intersect, cross or coincide with any railway track or tracks occupying the surface of any street or avenues, or the construction or operation of said railway shall interfere with any pipes, sewers, subways, or underground conduits or ways, any corporation organized under this act, or any contractor or person constructing any railway or part of a railway under any contract made with the board of rapid transit railroad commissioners, is hereby authorized, for the purpose of constructing the said work, to remove the track or tracks of any such surface railway or railways, or any such pipes, sewers, subways, or underground conduits or ways, but the same shall be done in such manner as to interfere as little as possible with the practical operation of workings of such surface railway or railways, or the works or business of the owners of any such pipes,

sewers, subways, or underground conduits or ways, and upon the construction of such railways built under and in conformity with the provisions of this act, where such removals or changes have been made, said track or tracks, pipes, sewers, subways or underground conduits or ways shall be restored as nearly as may be to the condition in which they were previous to the construction of any such railway built under the provisions of this act, and any damages which such company or companies or owners may sustain shall be ascertained by a commission to be appointed the same as in the case where lands are taken for the purpose of a railway route or routes as hereinbefore provided in this act. For the purpose of the construction or operation of any railway under the provisions of this act, the board of rapid transit railroad commissioners may remove or cause to be removed, any pipes, sewers, subways or underground conduits or ways underneath any street, highway, park, or public place; provided, however, that the same shall be replaced as soon as practicable, either in the same position as before or in a secure and convenient position underneath such street, highway or public place, or underneath such other street, highway or public place as may be approved by the head of the department of public works of the city. Provided, however, that nothing in this section contained shall authorize the permanent removal from any street, highway, park or public place of any subways or conduits for the reception of electrical conductors which shall have been placed in such street, highway or public place prior to the construction of the rapid transit railroad. All such removals and restorations shall be made at the proper cost and charge of such corporation, contractor or person as may have made such removals, but subject to the provisions of its, his or their contract, if any, with the board of rapid transit railway commissioners. Nothing contained in this act shall authorize any corporation formed thereunder to use the tracks of any horse railway. For the purpose of facilitating construction, and to diminish the period of occupancy of any street for the transportation of material, any contractor acting under a contract made in pursuance of this act, or of any act supplementary hereto or amendatory hereof, may, with the approval of the board of rapid transit railroad commissioners, lay upon or over the surface of any street, temporary tramways, to be used only for the removal of excavated materials or the transportation of material for use in the construction; provided, however, that any such tramway shall be forthwith removed upon the direction of the board of rapid transit railroad commissioners; and provided, further, that this provision shall not be construed to authorize the construction or operation of any street railroad or to grant to any corporation, association or individual the right to lay down railroad tracks. (*Thus amended by chap. 729, Laws of 1896.*)

§ 34. In case the people shall determine by vote, as provided in sections twelve and thirteen of chapter seven hundred and fifty-two of the laws of eighteen hundred and ninety-four, that any such railway or railways shall be constructed for and at the expense of such city, then and in that event it shall be the duty of said board to consider the routes, plans and specifications, if any, previously laid out and adopted by them or their predecessors, and for which the consents have been obtained referred to in section five of this act; and either to proceed with the construction of such railway or railways, and provide for the operation of the same, as hereinafter provided, or to change and modify the said routes, plans or specifications in such particulars as to said board may seem to be desirable, or to adopt other or different routes, plans and specifications for such railway or railways; provided, always, that in all cases in which any such change or modification shall be of such character as to require the consents thereto referred to in section five of this act; and in all cases where other or different routes or general plans may have been so adopted the said board shall proceed to secure the consents required to be obtained by section five of this act as therein set forth. As soon as such consents, where necessary, shall have been obtained, and the detailed plans and specifications have been prepared as provided in section six of this act, the said board, for and in behalf of said city, shall enter into a contract with any person, firm or corporation, which in the opinion of said board shall be best qualified to fulfill and carry out said contract, for the construction of such road or roads upon the routes and in accordance with the plans and specifications so adopted, for such sum or sums of money, to be raised and paid out of the treasury of said city, as hereinafter provided, and on such terms and conditions, not inconsistent with the aforesaid plans and specifications, as said board shall determine to be best for the public interests. And said board may contract for the construction of the whole road, or all the roads provided for by the aforesaid plans in a single contract, or made by separate contracts, executed from time to time, provide for the construction of parts of said road or roads or for the construction at first of two or more tracks over a part or parts of such road or roads and afterwards of one or more additional tracks over a part or parts of such road or roads as the necessities of said city and the increase of its population may in the judgment of said board require. The board may also, in a contract for a part of such a road, insert a provision that, at a future time, upon the requirement of the board, the contractor shall construct the remainder or any part of the remainder of said road, as the growth of population or the interests of the

city may, in the judgment of the board, require, and may, in such contract, insert a provision of a method for fixing and ascertaining at such future time the amount to be paid to the contractor for such additional construction, and to the end of such ascertainment, may provide for arbitration or for determination by a court of the amount of such compensation, or of any other details of construction which shall not be prescribed in the contract, but which shall be deemed necessary or convenient by said board. Any such contract may provide, if the public interests shall, in the opinion of the board, justify the provision, that the construction of any section or portion of the road, may, with the consent of the board, be suspended during the term of operation of the railroad as hereinafter mentioned, or any part of such term; provided, that during such term or part of term the contractor shall use, in lieu of such portion of the road, a railroad owned or leased by the contractor or a portion or section thereof, which shall, with the railroad or portion of railroad constructed by it under its contract with the board, form a continuous and convenient route. Such contract shall also provide that the person, firm or corporation so contracting to construct said road or roads shall, at his, or its own cost and expense, equip, maintain and operate said road or roads for a term of years to be specified in said contract, not less than thirty-five nor more than fifty years, and upon such terms and conditions as to the rates or fare to be charged and the character of service to be furnished and otherwise as said board shall deem to be suited to the public interests, and subject to such public supervision and to such conditions, regulations and requirements as may be determined upon by said board; provided, that in case the contract shall provide for construction at different times or at intervals of time of different parts of a road, or if the contract shall provide for the use by the contractor of an existing railroad as part of continuous route as aforesaid, then and in any such case the board of rapid transit railroad commissioners may, in its discretion, prescribe periods for the operation of the different parts of said road so that at one period of time in the future the board may be enabled to make a single operating contract or lease of the entire road. Such contract shall further provide, by proper stipulations and covenants on the part of the said city, that the said city shall secure and assure to the contractor, so long as the contractor shall perform the stipulations of the contract, the right to construct and to operate the road as prescribed in the contract, free of all right, claim or other interference, whether by injunction, suit for damages or otherwise, on the part of the owner, abutting owner or other person. Such contract shall

further provide that the person, firm or corporation so contracting to construct, maintain and operate said road shall annually pay into the treasury of said city, as rental for the use of said road, a sum which shall not, except as hereinafter provided, be less than the annual interest upon the bonds to be issued by said city for the construction of said road as hereinafter provided for, and in addition to said interest, a further sum which shall be equal to a percentage of not less than one per centum upon the whole amount of said bonds; provided, that in estimating such annual interest and additional percentage there shall be deducted from the amount of said bonds the amount thereof issued to pay for rights, terms, easements, privileges or property other than lands acquired in fee. And provided, further, that the said contract may, in the discretion of the said board, provide that the payment of the said further sum of not less than one per centum upon the amount of said bonds as aforesaid, shall begin at a date not more than five years after the date at which the payment of rental shall begin, and that the said annual rate, instead of one per centum, may be a rate not less than one-half per centum for a further period not exceeding five years; but in case the contractor shall, during any year in which the said payment of one per centum shall be suspended or reduced as aforesaid, earn a greater profit upon his, its or their net capital invested in the enterprise than five per centum, then the surplus of his, its or their earnings for such year up to the extent of at least one per centum shall be paid as rental as aforesaid. Such rental and the term for the operation of said road shall begin, as to said road, or any section thereof, when the same shall be declared by the board of rapid transit railroad commissioners to be completed and ready for operation. For the purpose of estimating such one per centum per annum upon the ascertainment of the amount of such rental, there shall be included such portion of the said bonds as shall have been issued to pay interest on bonds heretofore issued under the provisions of this act, except bonds issued to pay for rights, terms, easements, privileges or property other than lands acquired in fee. The aforesaid annual rental shall be paid at such times during each year as said board shall require, and shall be applied first to the payment of the interest on said bonds, as the same shall accrue and fall due, and the remainder of said rental not required for the payment of said interest shall be paid into the sinking fund, for the payment of the city debt, if there shall be such sinking fund in said city, or, if there be none such, then said balance of said rental shall be securely invested, and, with the annual accretions of interest thereon, shall constitute a sinking fund for

the payment and redemption at maturity of the bonds issued, as herein-after provided. Said contract may also provide for a renewal or renewals of the lease of said road upon the expiration of the original term and of any renewals of the same, upon such terms and conditions as to said board may seem just and proper, and may also contain provisions for the valuation of the whole or a part of the property of said contracting person, firm or corporation, employed in and about the equipment, maintenance and operation of said road, and for the purchase of the same by the city, at such valuation, or a percentage of the same, should said lease not be so renewed at any time. Said contract may provide for the construction of said road in sections, and, except as herein otherwise provided, shall specify when the construction of said road, or sections of the same shall be commenced, and, in each case, the date of completion. It shall also state the date on which the operation of the road, or of any section thereof, shall commence. The person, firm or corporation so contracting for the construction, equipment, maintenance and operation of said road shall give a bond to said city, in such amount as said board of rapid transit railroad commissioners shall require, and with sureties to be approved by said board, who shall justify in the aggregate in double the amount of said bond. Said bond shall be a continuing security, and shall provide for the prompt payment by said contracting person, firm or corporation, of the amount of annual rental specified in the aforesaid contract, and also for the faithful performance by said contracting person, firm or corporation of all the conditions, covenants and requirements specified and provided for in said contract. The said contracting person, firm or corporation shall also, simultaneously with the execution and delivery of said contract, deposit with the comptroller or other chief financial officer of such city the sum of one million dollars in cash or in securities of a value not less than one million dollars, which securities shall be of the character of those in which the savings banks of this state are authorized by law to invest moneys, and shall be approved by the board of rapid transit railroad commissioners, which cash or securities shall, under such terms and conditions as shall be provided in the said contract, be further security for the faithful performance by such contracting person, firm or corporation of all the covenants, conditions and requirements specified and provided for in said contract relating to the construction and equipment of said road, and the city in and for which said road shall be constructed shall also have a first lien upon the rolling stock and other property of said contracting person, firm or corporation, constituting the equipment of said road and used or intended for use in

the maintenance and operation of the same, as further security for faithful performance of such contracting person, firm or corporation the covenant, conditions and agreements of said contract, on his, their, its part to be fulfilled and performed, and in case of the breach of a such covenant, condition and agreement said lien shall be subject foreclosure by action, at the suit of such city, in the same manner, as if as may be, as is then provided by law in the case of foreclosure by action of mortgages on real estate. The said board of rapid transit railroad commissioners may, however, from time to time, by a concurrent vote of six of the members of said board, relieve from such lien any of the property to which the same may attach, upon receiving additional security which may be deemed by said board so voting to be the equivalent of that which it is proposed to release and otherwise upon such terms as said board so voting shall seem just. Upon the completion of the construction and equipment of said road to the satisfaction of said board and when the operation of the same shall have commenced pursuant to said contract, it shall be the duty of the comptroller or other chief financial officer to pay to the said contracting person, firm or corporation said sum of one million dollars in cash or the said securities so to be deposited as above provided, and the said contracting person, firm or corporation shall also be then entitled to be credited upon the rental which he, they or it shall have contracted to pay to said city for the use of said road the sum which shall be equal, as the case may be, either to the interest on the sum of one million dollars for the time of such deposit at the rate of interest provided for in the bonds which shall have been issued and sold by the city to provide for the construction of said road, or to the interest, dividends or other income which said city shall have received from the said securities. The said contract shall further provide that in case of default in paying the annual sum or rental therein provided for, or in case of the failure or neglect on the part of said contracting person, firm or corporation, faithfully to observe, keep and fulfill the conditions, obligations and requirements of said contract, the said city, by its board of rapid transit railroad commissioners, may take possession of said road and the equipment thereof, and as the agent of said contracting person, firm or corporation, either maintain and operate said road, or enter into a contract with some other person, firm or corporation for the maintenance and operation thereof, retaining out of the proceeds of such operation, after the payment of the necessary expenses of operation and maintenance, the annual rental hereinbefore referred to, and paying over the balance, if any, to the person, firm or corporation with whom the first

contract above mentioned was made, and if such proceeds of the operation of said road, after the payment of the necessary expenses of maintenance and operation, including the keeping in repairs of the rolling stock and other equipment, shall in any year be less than the annual rental hereinbefore referred to and provided in the first contract, then, and in that case, the said contracting person, firm or corporation, and his or its bondsmen, shall be and continue jointly and severally liable to the aforesaid city for the amount of such deficiency, until the end of the full term for which the said first contract was originally made. No contract entered into under authority of this act shall be assigned without the written consent of the said board of rapid transit railroad commissioners, concurred in by six members of said board. It shall be deemed to be part of every such contract that, in case the board of rapid transit railroad commissioners shall cease to exist, the legislature may provide what public officer or officers of the city shall exercise the powers and duties belonging to the board of rapid transit railroad commissioners under or by virtue of any such contract, and that in default of such provisions, such powers and duties shall be deemed to be vested in the mayor of the city. Every such contract shall provide that if the contracting person, firm or corporation shall fail to construct or operate the railway according to the terms of the contract, and shall, after due notice of its default, omit for more than a reasonable time to comply with the provisions of such contract, the board of rapid transit railroad commissioners may bring an action in the name and in behalf of the city to forfeit and vacate all the rights of such contracting person, firm or corporation under such contract, and for damages and otherwise as may be necessary for the sufficient and just protection of the rights of the city; or may, upon such terms as to the board of rapid transit railroad commissioners seem just, and with such person or corporation as to the said board may seem proper, make another operating contract and lease of the said road for the residue of the term of the contractor in default; and may bring action in the name and on behalf of the city to recover from the contractor the amount due from the contractor, less the amount which shall have been received by the city, under or by virtue of such new contract, and for all other damages sustained by the city by reason of such default. Any railroad corporation organized under the laws of this state, or any existing railway corporation owning or actually operating a railway wholly or in part within the limits of the city in and for which said board has power to act, or any corporation organized under the business corporation laws of this state, and approved by the said board of rapid transit railroad com-

missioners, shall be competent and is hereby authorized to enter into a contract for the construction and operation of any railway pursuant to the provisions of this chapter, and shall have all the powers necessary to the due performance of such contract. Where in this section the consents referred to in section five of this act are mentioned, they shall be construed to include any consent given by the commissioners appointed by the general term or appellate division of the supreme court, and confirmed by the said general term or appellate division in lieu of the consent of property owners as hereinbefore provided. (*Thus amended by chap. 729, Laws of 1896.*)

§ 35. The equipment to be supplied by the person, firm or corporation operating such road shall include all rolling stock, motors, boilers, engines, wires, ways, conduits and mechanisms, machinery, tools, implements and devices of every nature whatsoever used for the generation or transmission of motive power and including all power houses, and all apparatus and all devices for signaling and ventilation. Such person, firm or corporation shall be exempt from taxation in respect to his, their or its interest under said contract and in respect to the rolling stock and all other equipment of said road, but this exemption shall not extend to any real property which may be owned or employed by said person, firm or corporation in connection with the said road. (*Thus amended by chap. 729, Laws of 1896.*)

§ 36. The said board of rapid transit railroad commissioners before awarding any contract or contracts shall advertise for proposals for such contracts by a notice to be printed twice a week for three successive weeks in no less than four of the daily newspapers published in said city, and in such newspapers published elsewhere than in said city as said board shall determine. Such notice shall set forth and state the points within said city, between which said road or roads is or are to run, the general method of construction, the route or routes to be followed, the term of years for which it is proposed to make such contract, and such other details and specifications as said board shall deem to be proper. Said notice shall state the time and place at which said proposals will be opened, and the said board shall attend at the time and place so specified, and shall publicly open all proposals that shall have been received, but the said board shall not be bound to accept any proposals so received, but may reject all such proposals and readvertise for proposals in the manner hereinbefore provided, or may accept any of such proposals as will, in the judgment of such board, best promote the public interest, and award a contract accordingly. (*Thus amended by chap. 519, Laws 1895.*)

§ 37. For the purpose of providing the necessary means for such

construction, at the public expense, of any such road or roads and the necessary means to pay for lands, property, rights, terms, privileges and easements, whether of owners, abutting owners, or others, which shall be acquired by the city for the purposes of the construction or the operation of such road or roads as hereinafter provided, and of meeting the interest on the bonds in this section hereinafter provided for accruing thereon prior to the completion and readiness for operation of the portion of such road or roads for the construction of which such bonds shall have been respectively issued, the board of estimate and apportionment, or other local authority in said city, in which such road or roads are to be constructed, having power to make appropriations of moneys to be raised by taxation therein, from time to time, and as the same shall be necessary, and upon the requisition of said board of rapid transit railroad commissioners, shall direct the comptroller, or other chief financial officer of said city, and it shall thereupon become his duty to issue the bonds of said city at such a rate of interest, not exceeding three and one-half per centum per annum, as said board of estimate and apportionment, or other local authority directing the issue of such bonds, may prescribe. Said bonds shall provide for the payment of the principal and interest in gold coin of the United States of America. They shall not be sold for less than the par value thereof, and the proceeds of the same shall be paid out and expended for the purposes for which the same are issued, upon vouchers certified by said board of rapid transit railroad commissioners. Said bonds shall be free from all taxation for city and county purposes, and shall be payable at maturity out of the sinking fund for the payment of the city debt, if there be such a sinking fund of said city; but if there be no such sinking fund, then out of a sinking fund to be established and created out of the annual rentals of said road as hereinbefore provided. But this provision that the said bonds shall be payable out of such sinking fund shall not diminish or affect the obligation of said city as a debtor upon said bonds, or any other right or remedy of any holder or owner of any such bonds, to collect the principal or interest thereof. The amount of bonds authorized to be issued and sold by this section shall not exceed fifty millions of dollars, par value, without the consent of the legislature first had and obtained, provided, however, that such amount shall be increased by a sum not exceeding five millions of dollars, if the board of rapid transit railroad commissioners shall certify that such increase is made necessary by payments required for any lands, property, rights,

terms, easements or privileges which shall be acquired by the said city as hereinafter provided. (*Thus amended by chap. 519, Laws of 1895.*)

§ 38. The board of rapid transit railroad commissioners for and on behalf of the said city in which such road or roads may be constructed, may, from time to time, with the concurrence of six members of said board and the consent, in writing, of the bondsmen or sureties of the person, firm or corporation which has contracted to construct, equip, maintain and operate said road or roads, or any of them, agree with said contracting person, firm or corporation upon changes in and modifications of said contract, or of the plans and specifications upon which said road or roads is or are to be constructed, but no change or modifications in the plans and specifications consented to and authorized pursuant to section five of this act shall be made without the further consent and authorization provided for in said section; but in no event shall the annual rental to be paid to said city, for the use of said road, be reduced below the minimum rate hereinbefore provided. (*Thus amended by chap. 519, Laws of 1895.*)

§ 39. For the purpose of constructing or operating any road for the construction and operation of which a contract shall have been made by the board of rapid transit railroad commissioners, including necessary stations and station approaches, or for the purpose of operating or securing the operation of the same free of interference and right of interference and of action and right of action for damages and otherwise, whether by abutting owners or others, or to provide, lay or maintain conduits, pipes, ways or other means for the transmission of electricity, steam, water, air or other source or means of power or of signals or of messages necessary or convenient for or in the construction or operation of such road, or for the transportation of materials necessary for such construction or operation, or to provide a temporary or permanent way or course for any such conduit, pipe or other means or source of transportation, said board for and in behalf of said city may acquire as in this act provided, any real estate and any rights, terms and interest therein, any and all rights, privileges, franchises and easements, whether of owners or abutting owners, or others, including rights of owners, abutting owners, or others to interfere with the construction or operation of such road or to recover damages therefor, which, in the opinion of the board, it shall be necessary to acquire or extinguish for the purpose of constructing and operating such road free of interference or right of interference. The word "property" hereinafter used shall be deemed to include any such real estate, and any rights, terms and interests therein, and any such rights, privileges, franchises and easements, whether of owners, abutting owners, or others. Where any contractor for the construction or operation of any such railroad shall require any property for such construction or operation, such property shall be deemed to be required for a public purpose; and with the approval of the said board of rapid transit railroad commissioners the same may be acquired by the said contractor in all respects as such property may be acquired by the said board of rapid transit railroad

commissioners for the said city, and all proceedings to acquire the said property shall be conducted under the direction and subject to the approval of the rapid transit railroad commissioners. (*Thus amended by chap. 729, Laws of 1896.*)

§ 40. It shall and may be lawful for said board, and for all persons acting under its authority, to enter in the daytime into and upon any and all lands and property which it shall deem necessary to be acquired, or to which there may be appurtenant rights, terms, franchises, easements or privileges which it shall deem necessary to be acquired or extinguished by said city, for the purpose of making the maps or surveys hereinafter mentioned, and also to enter in like manner and for the same purpose upon any property adjacent to and within five hundred feet of the property to be so surveyed; and the said board shall cause three similar maps or plans to be made of each parcel of property which it may deem necessary so to be acquired, or to which there may be appurtenant rights, terms, franchises, easements or privileges necessary so to be acquired or extinguished, designating each of said parcels by a number, and upon each map or plan so made or in a memorandum accompanying the same and to be deemed part thereof the said board shall cause to be clearly indicated the particular estate or estates, rights, terms, privileges, franchises or easements to be acquired or extinguished for the purposes of this act, in relation to each and every piece or parcel of property described upon said map or plan. The said board shall have power to cause a triplicate set of maps or plans and memoranda as herein provided for to be made as often and at such times as said board shall determine, and each set of maps or plans and memoranda so made shall contain the particulars above enumerated within such district as said board shall in each case provide. The maps or plans and memoranda herein provided for, when approved and adopted by said board, shall have written thereon a certificate of such approval, signed by the members of said board adopting and approving the same, and one copy thereof shall be filed in the department of public works, or other chief executive department having principal charge of the streets, there to remain as a public record, and the other two of said maps or plans and memoranda shall be transmitted to the counsel to the corporation or other principal legal adviser of said city. The said board may from time to time make and file further maps or plans and memoranda amending those already filed, but not so as to defeat or impair any property or interest which shall have been already acquired, or to revive any interest or right which may have been

already extinguished by the said city. (*Thus amended by chap. 519, Laws 1895.*)

§ 41. Whenever and as often as the said board shall deem it to be necessary and proper that the said city should acquire any such property and shall have caused to be made, as provided in the last preceding sections, the maps or plans and memoranda specifying and defining the said property to be acquired, or to which are appurtenant the rights, terms, franchises, easements or privileges to be acquired or extinguished, and shall have certified, filed and transmitted the several copies of such maps or plans as in the last section prescribed, the said board may direct the counsel to the corporation or other principal legal adviser of said city, to take legal proceedings to acquire the same for the said city, and the said counsel to the corporation, or other principal legal adviser, shall thereupon take proceedings as in this act provided. (*Thus amended by chap. 519, Laws 1895.*)

§ 42. The said counsel to the corporation, or other principal legal adviser of said city, shall cause one of the maps or plans, so as aforesaid transmitted to him, to be filed in the office of the register of the county, or if there be no such register, then in the office of the county clerk of the county in which said city is situated. The map, hereinafter denominated the third map, being the other one of the two so as aforesaid transmitted to said counsel to the corporation, or other legal adviser, shall be disposed of as hereinafter provided. (*This section added by chap. 752, Laws 1894.*)

§ 43. After the said set shall have been filed as hereinbefore provided in the office of the register or county clerk of said county, the said counsel to the corporation, or other principal legal adviser, for and on behalf of the said city, shall, and he may from time to time, upon first giving the notice required by the next section of this act, apply to the supreme court at any special or general term thereof, to be held in the judicial district in which said city is situated, for the appointment of commissioners of appraisal. Upon each such application he shall present to the court a petition, signed by a majority of the members of said board and verified in the manner prescribed by law for the verification of pleadings, according to the practice of said court, setting forth the action or determination theretofore taken or had by said board, with respect to the property to be acquired, and the filing of said maps or plans and memoranda and praying for the appointment of such commissioners of appraisal. Such petition shall contain a general description of all the property to, or in or over or appurtenant to which any title, interest, right, franchise, easement, term or privilege is sought to be acquired or extinguished, and of every right, franchise, easement, or privilege sought to be

acquired, by the said city for public purposes, each lot or parcel being more particularly described by a reference to the number of said lot or parcel as given on said maps, and the title, interest, right, easement, term or privilege sought to be acquired, or extinguished, to or in or over or appurtenant to each of said lots or parcels shall be stated in said petition. (*Thus amended by chap. 519, Laws 1895.*)

§ 44. The said counsel to the corporation or other principal legal adviser shall give, or cause to be given, notice by publication in two public newspapers published in the said city, of his intention to make application to the said court for the appointment of such commissioners of appraisal, which notice shall state the time and place of such application, shall briefly state the object of the application and shall describe the property sought to be acquired or affected. A statement of the location and boundaries of the several lots or parcels of property and rights, franchises, easements, or privileges sought to be taken or affected, and a brief statement as to each of said lots or parcels of the title, interest, rights, easements, terms or privileges therein or appurtenant thereto, sought to be acquired or extinguished with a reference to the dates and places of filing the said maps or plans and memoranda shall be a sufficient description of the property sought to be so taken or affected. Such notice shall be so published daily, Sundays and holidays excepted, in said newspapers for six weeks immediately previous to the time fixed in said notice for the presentation of each petition. (*Thus amended by chap. 519, Laws 1895.*)

§ 45. At the time and place mentioned in said notice, unless the said court shall adjourn said application to a subsequent date, and in that event at the time to which the same may be adjourned, the court, upon due proof to its satisfaction of the publication aforesaid, and upon filing the said petition, shall make an order for the appointment of three disinterested freeholders, residents in said city, as commissioners of appraisal, to ascertain and appraise the compensation to be made to the owners of property so to be taken or extinguished for the purposes indicated in this act. Such order shall fix the time and place for the first meeting of the commissioners. (*This section added by chap. 752, Laws 1894.*)

§ 46. The said commissioners shall take and subscribe the oath required by the twelfth article of the constitution of the state of New York, and shall forthwith file the same in the office of the clerk of the county in which said city is situated. (*This section added by chap. 752, Laws 1894.*)

§ 47. On filing said oath in the manner provided in the last section, the said city shall be and become seized and possessed in fee or absolute ownership of all those parcels of property, rights, terms, franchises, easements and privileges which are in the maps or plans and memoranda

referred to in section forty of this act, described as parcels of property rights, franchises, easements, or privileges which are to be acquired, and also shall become seized and possessed of all the rights, terms, franchises easements or privileges appurtenant to any lots or parcels of property indicated on said maps or plans as parcels in regard to which it is deemed necessary to acquire such rights, terms, franchises, easements or privileges, or the said rights, terms, franchises, easements or privileges shall be extinguished, as the case may be; and the said board for the said city may immediately, or at any time or times thereafter, take possession or enter into the enjoyment of the said property, rights, terms, franchises, easements and privileges, or of any part or parts thereof, without any suit or proceeding at law for that purpose, and the said board for the said city, or any person or persons acting under their or its authority, may enter upon and use, occupy, and enjoy in perpetuity all the parcels of property and all the rights, terms, franchises, easements or privileges appurtenant to any of the parcels of property, and all rights, franchises, easements and privileges described on said maps or plans, or in said memoranda, for any of the purposes authorized and provided for by this act. But on such filing of the said oath the said city shall be and become forthwith liable to the respective owners of the several parcels of property and the several rights, terms, franchises, easements and privileges appertaining thereto, and of the said rights, franchises, easements and privileges acquired as aforesaid, for the true and respective values thereof, together with interest thereon from the time of filing the said oath, provided, however, that no such interest shall be payable to any owner of any such property, right, term, franchise, easement or privilege during any period during which the said city or the said board of rapid transit railroad commissioners may by any resistance, whether by legal proceedings or otherwise of such owner or with his authority, be prevented from taking possession thereof or enjoying the same; and provided, further, that no action shall be brought to recover the amount of such value or interest unless within eighteen months after the filing of such oath a report shall not have been duly made by commissioners of appraisal as herein provided, or such report shall not have been confirmed by the supreme court as herein provided, so that the said city shall be liable to forthwith pay the amount by such report ascertained to be due for such value or interest. (*Thus amended by chap. 519, Laws 1895.*)

§ 48. Any one of said commissioners of appraisal may issue subpoenas and administer oaths to witnesses, and they or any one of them, in the absence of the others, may adjourn the proceedings, from time to time in their discretion, but they shall continue to meet from time to time as may be necessary to hear, consider and determine upon all claims which may

be presented to them under any of the provisions of this act. In case of the death, resignation, refusal or neglect to serve of any commissioner of appraisal, the remaining commissioner or commissioners shall, upon ten days' notice, to be given by advertisement in the newspapers mentioned in section forty-four of this act, apply to the supreme court, at a special or general term thereof, to be held in the judicial district in which said city is situated, for the appointment of a commissioner or commissioners to fill the vacancy or vacancies so occasioned. In case of the death, resignation or refusal to serve of all the commissioners of appraisal, the said counsel to the corporation or other principal legal adviser to said city shall, on giving the notice required in this section, apply to the said court for the appointment of other commissioners of appraisal. It shall be the duty of the commissioners of appraisal to procure from the counsel to the corporation or other principal legal adviser the third set of maps or plans and memoranda provided for in sections forty and forty-two of this act. They shall view the property laid down on said map, and shall hear the proofs and allegations of any owner, lessee or other person in any way entitled to or interested in the property to be acquired or extinguished, or any part or parcel thereof, and also such proofs and allegations as may be offered on behalf of the said city. They shall reduce the testimony, if any, taken before them to writing, and after the testimony is closed, they, or a majority of them, all having considered the same, and having an opportunity to be present, shall without unnecessary delay, ascertain and determine the compensation which ought justly to be made by the said city to the owners or persons interested in the property acquired or extinguished by said proceedings. The said commissioners of appraisal shall make reports of their proceedings to the supreme court, as in the next section provided with the minutes of the testimony taken before them, if any, and they shall be entitled to the payment hereinafter provided for their services and expenses to be paid from the fund hereinafter specified. The said commissioners may make a single report or may make reports from time to time as they shall reach their several decisions as to different parcels of property. (*Thus amended by chap. 519, Laws 1895.*)

§ 49. The said commissioners shall prepare a report or reports, to which shall be annexed the third set of maps or plans and memoranda referred to in section forty-two of this act and therein denominated the third set or a copy thereof certified by them. Each said report shall contain a brief description of the property so taken or affected, with a reference to the map upon which the same is required to be indicated; a statement of the sums estimated and determined upon by them, as a just compensation for the same to be made by the city

to the owners or persons interested therein, and the names of such owners and persons; but in all and each and every case or cases where one or more of the owners and persons interested, or their respective estates or interests, are unknown, or not fully known, to the commissioners of appraisal, it shall be sufficient for them to set forth and state in general terms the respective sums to be allowed and paid to the owners of and persons interested therein, generally, without specifying the names or estates or interests of such owner or persons interested, or any or either of them. (*Thus amended by chap. 519, Laws 1895.*)

§ 50. Each said report, signed by said commissioners, or a majority of them, shall be filed in the office of the clerk of the county in which said city is situated, and the commissioners of appraisal shall, in each case, notify the counsel to the corporation, or other principal adviser to said city, as soon as any such report is filed. (*Thus amended by chap. 519, Laws 1895.*)

§ 51. The counsel to the corporation, or other principal legal adviser, or, in case of his neglect to do so within ten days after receiving notice of such filing, then any person interested in the proceedings shall give notice that the said report will be presented for confirmation to the supreme court, at a special term thereof, to be held in the judicial district in which said city is situated, at a time and place to be specified in said notice. The said notice shall contain a statement of the time and place of the filing of the report, and shall be published in two daily newspapers published in such city, for at least two weeks immediately prior to the presentation of said report for confirmation. (*Thus amended by chap. 519, Laws 1895.*)

§ 52. The application for the confirmation of each such report shall be made to the supreme court at a special term thereof, held in the judicial district in which said city is situated. Upon the hearing of the application for the confirmation thereof the said court shall confirm such report, and make an order containing a recital of the substance of the proceedings in the matter of the appraisal, with a general description of the property appraised and for which compensation is to be made, and shall also direct to whom the money is to be paid, and whether or not any part thereof, and, if so, what part, is to be deposited with the comptroller or other chief financial officer of said city with the chamberlain of said city, or if there be no chamberlain, with a bank or trust company to be designated by said court. Such report when so confirmed shall, except in the case of an appeal, as hereinafter provided, be final and conclusive, as well upon the said city as upon owners and all persons interested in or entitled to said property, and also upon all other persons whomsoever. (*Thus amended by chap. 519, Laws 1895.*)

§ 53. The said city shall, within four calendar months after the confirmation of any report of the commissioners of appraisal, pay to the respective owners and bodies politic or corporate mentioned or referred to in said report, in whose favor any sum or sums of money shall be estimated and reported by said commissioners, the respective sum or sums so estimated and reported in their favor respectively, with legal interest thereon from the date of filing the oath of said commissioners, and in case of neglect or default in the payment of the same within the time aforesaid, the respective person or persons or bodies politic or corporate, in whose favor the same shall be so reported, his, her or their executors, administrators, successors or assigns at any time or times after application first made by him, her or them, to the comptroller or other chief financial officer of said city for payment thereof, may sue for and recover the same, with lawful interest as aforesaid, and the costs of suit, in any proper form of action against the said city in any court having cognizance thereof, and in which it shall be sufficient to declare generally for so much money due to the plaintiff or plaintiffs therein by virtue of this act for property taken or extinguished for the purposes herein mentioned, and the report of said commissioners, with proof of the right and title of the plaintiff or plaintiffs to the sum or sums demanded shall be conclusive evidence in such suit or action. (*Thus amended by chap. 519, Laws 1895.*)

§ 54. Whenever the owner or owners, person or persons interested in any property taken or affected in such proceeding, or in whose favor any such sum or sums or compensation shall be so reported, shall be under the age of twenty-one years, or of unsound mind or absent from the city, and also in all cases where the name or names of the owner or owners, person or persons, interested in any such property shall not be set forth or mentioned in said report or where the said owner or owners, person or persons, being named therein, can not, upon diligent inquiry, be found, or where there are adverse or conflicting claims to the money awarded as compensation, it shall be lawful for the said city to pay the sum or sums mentioned in said report, payable, or that would be coming to such owner or owners, person or persons, respectively, with interest, as aforesaid, to the chamberlain of said city, or, if there be no chamberlain, then to any bank or trust company designated by the court in the order confirming the report of the commissioners of appraisal, to the credit of such owner or owners, person or persons, and such payment shall be as valid and effectual in all respects as if made to the said owner or owners, person or persons, interested therein, respectively, according to their just rights; and, provided, also, that in all and each and every such case and cases where any sum or sums or compensation reported by the commis-

sioners in favor of any person or persons or parties whatsoever, whether named or not named in said report, shall be paid to any person or persons, or party or parties, whomsoever, when the same shall of right belong and ought to have been paid to some other person or persons, or party or parties, it shall be lawful for the person or persons, or party or parties, to whom the same ought to have been paid, to sue for and recover the same, with lawful interest and costs of suit, as so much money had and received to his, her or their use by the person or persons, party or parties, respectively, to whom the same shall have been so paid. (*This section added by chap. 752, Laws 1894.*)

§ 55. Every owner or person in any way interested in any property taken or extinguished as contemplated in this act, if he intends to make claim for compensation for such taking or extinguishment, shall within three years after the appointment of the commissioners of appraisal exhibit to the said commissioners a statement of his claim, and shall thereupon be entitled to offer testimony and to be heard before them touching such claim and the compensation proper to be made him, and to have a determination made by such commissioners of appraisal as to the amount of such compensation. Every person neglecting or refusing to present such claim within said time shall be deemed to have surrendered his claim for such compensation, except so far as he may be entitled, as such owner or person interested, to the whole or a part of the sum of money awarded by the commissioners of appraisal as a just compensation for taking or extinguishing the property owned by said person, or in which the said person is interested. (*This section added by chap. 752, Laws 1894.*)

§ 56. Payment of the compensation awarded by said commissioners of appraisal to the persons named in their report (if not infants or persons of unsound mind) shall, in the absence of notice to the said city or other claimants to such award, protect the said city. (*This section added by chap. 752, Laws 1894.*)

§ 57. Said commissioners of appraisal may in their discretion take up any specified claim or claims, and finally ascertain and determine the compensation to be made thereon, and make a separate report with reference thereto, annexing to said report a copy of so much of the set of maps or plans and memoranda referred to in section forty-two of this act as indicates the property so reported on. Such report shall, as to claims therein specified, be the report required in this act, and the subsequent action with reference thereto, shall be had in the same manner as though no other claim were embraced in said proceeding, which, however, shall continue as to all claims upon which no such determination and report is made. (*Thus amended by chap. 519, Laws 1895.*)

§ 58. Within twenty days after notice of the confirmation of the report

of the commissioners, as provided for in section fifty-two of this act, which notice may, as to parties who have not appeared before the commissioners, be given in the manner provided in section fifty-one of this act; either party may appeal to the general term of the supreme court in the department in which such commissioners were appointed, from the appraisal and report of the commissioners and the order confirming the same. Such appeal shall be heard upon due notice thereof being given according to the rules and practice of said court. On the hearing of such appeal the court may direct a new appraisal and determination of any question passed upon, by the same or new commissioners, in its discretion, and from any determination of the general term either party, if aggrieved, may take an appeal, which shall be heard and determined by the court of appeals. In the case of a new appraisal the second report shall be final and conclusive on all the parties and persons interested. If the amount of compensation to be made by such city is increased by the second report, the difference shall be paid by the comptroller or other chief financial officer of said city, to the parties entitled to the same, or shall be deposited with the chamberlain, or bank or trust company, as the court may direct, and if the amount is diminished the difference shall be refunded to the said city by the party to whom the same may have been paid, and judgment therefor may be rendered by the court on the filing of the second report against the party liable to pay the same. But the taking of an appeal by any person or persons shall not operate to stay the proceedings under this act except as to the particular property with which the said appeal is concerned. Such appeal shall be heard upon the evidence taken before said commissioners, and any affidavits as to irregularities, and three printed copies of such evidence shall be furnished by the said city to the party taking the appeal, within ten days after the appeal is perfected, and such appeal may be heard on the evidence so furnished, and may be taken without security thereon. (*This section added by chap. 752, Laws 1894.*)

§ 59. The supreme court in the judicial district in which said city is situated shall have power at any time to amend any defect or informality in any of the special proceedings authorized by this act as may be necessary, and to direct such further notices to be given to any party in interest as it deems proper, and also to appoint other commissioners in place of any who shall die, or refuse, or neglect to serve or be incapable of serving, or be removed. And the said court may at any time remove any commissioner of appraisal who in its judgment shall be incapable of serving, or who shall for any reason in its judgment be an unfit person to serve as such commissioner. The cause of such removal shall be specified in the order making the same. If in any particular it shall at any time

be found necessary to amend any pleading or proceeding or to supply any defect therein arising in the course of any special proceeding authorized by this act, the same may be amended or supplied in such manner as shall be directed by the supreme court, which is hereby authorized to make such amendment or correction. Wherever in this act reference is made to the general term of the supreme court, it shall be deemed to include the appellate division of the supreme court for the district in which said city is situated, whenever said general term shall be superseded thereby. (*Thus amended by chap. 519, Laws 1895.*)

§ 60. All property acquired under the provisions of this act shall be and shall be deemed to have been acquired for public uses and purposes, and for the purpose of affording increased facilities for rapid transit between points within the city acquiring such property. (*This section added by chap. 752, Laws 1894.*)

§ 61. The moneys necessary and sufficient to be paid for any property, acquired in any manner under the provisions of this act, together with all expenses necessarily incurred in surveying, locating, and acquiring title to such property, and for surveying and locating the same, and for preparing the necessary maps and plans in connection therewith, shall be raised and paid out of the proceeds of bonds issued and sold as provided by section thirty-seven of this act, and all such expenses so incurred in surveying, locating and acquiring title, and for preparing necessary maps and plans and also those incurred as provided in the next section shall be deemed a part of and included in the cost of constructing the road or roads, the construction of which rendered it necessary to acquire the property in the course of the acquisition of which such expenses may be incurred. (*Thus amended by chap. 519, Laws 1895.*)

§ 62. The commissioners of appraisal appointed in pursuance of this act shall receive as compensation the sum of ten dollars per day for each day actually employed. They may employ the necessary clerks, stenographers and surveyors. The counsel to the corporation or other principal legal adviser to said city shall, either in person or by such counsel as he shall designate for the purpose, appear for and protect the interests of the city in all proceedings in court and before the commissioners. The fees of the commissioners and the salaries and compensation of their employes, and all other necessary expenses in and about the said proceedings provided for by this act, and such allowance for counsel fees as may be made by order of the court, and all reasonable expenses incurred by said counsel to the corporation, or other principal legal adviser of said counsel designated by him for the proper presentation and defense of the interests of said city before said commissioners and in court, shall be paid by the comptroller or other chief financial officer of said city out of the

funds referred to in the last preceding section. But such fees and expenses shall not be paid until they have been taxed before a justice of the supreme court in the judicial district in which said city is situated upon five days' notice to the counsel to the corporation, or other chief legal adviser of said city. Such allowance shall, in no case, exceed the limits prescribed by section thirty-two hundred and fifty-three of the code of civil procedure. (*This section added by chap. 752, Laws 1894.*)

§ 63. In case it shall be determined by vote of the people as provided by sections twelve and thirteen of this act, to construct by and at the city's expense, then and in that event the road or roads so constructed shall be and remain the absolute property of the city so constructing it or them, and shall be and be deemed to be a part of the public streets and highways of said city, to be used and enjoyed by the public upon the payment of such fares and tolls, and subject to such reasonable rules and regulations as may be imposed and provided for by the board of rapid transit railroad commissioners in said city. (*This section added by chap. 752, Laws 1894.*)

CONSTRUCTION OF ACT.

§ 64. This act shall not be construed to repeal or in any manner affect chapter six hundred and six of the laws of eighteen hundred and seventy-five, entitled "An act to further provide for the construction and operation of a steam railway or railways in the counties of this state," or the acts amendatory thereof or supplementary thereto, or article five of chapter five hundred and sixty-five of the laws of eighteen hundred and ninety, known as the railroad law, except so far as the said acts, or either of them, would, if this act had not been passed, authorize the appointment hereafter of any commissioners applied for as provided in section one of said act of eighteen hundred and seventy-five, or in section one hundred and twenty of said act of eighteen hundred and ninety, in any city or cities containing a population of over one million inhabitants, according to the last preceding national or state census, or authorize any commissioners already appointed pursuant to the provisions of such act or acts in any such city or cities, to fix, determine or locate any new route or routes, pursuant to the provisions of either of said acts. This act shall not be construed in any manner to affect the exercise or enjoyment at any time, and from time to time hereafter, of any right or rights heretofore acquired, exercised or enjoyed by any corporation heretofore duly incorporated and organized or deriving powers and rights under the laws of this state. This act shall not affect or impair the exercise or enjoyment

of any right or rights now possessed or heretofore acquired or heretofore authorized to be acquired, exercised or enjoyed by any street surface railroad corporation, except as herein otherwise expressly provided, and this act shall not be construed to repeal or in any manner affect chapter one hundred and forty of the laws of eighteen hundred and fifty, entitled "An act to authorize the formation of railroad corporations, and to regulate the same," or either of the several acts amendatory thereof or supplementary thereto. This act shall not be construed to repeal or in any manner affect chapter five hundred and sixty-five of the laws of eighteen hundred and ninety, known as the railroad law, except as hereinabove expressly provided, or except so far as the provisions of the same conflict with the provisions of this act. But nothing in this section contained shall prevent the board of rapid transit railroad commissioners from laying out a route for a railway and constructing a railway, and such board shall have the right to lay out such route and construct such railway, over, under, along or across any street in, along, under or over which there shall be any existing railway, provided that the routes so laid out by the said board and the railway so constructed by it shall so pass over or under or at the side of such existing railway as not to interfere with its operation. (*Thus amended by chap. 519, Laws 1895.*)

NO SURFACE ROADS UNDER ACT.

§ 65. No railroad shall be constructed or operated upon the surface of any street, avenue or highway in the city of New York under the provisions or authority of this act. (*The number of this section was changed from 35 to 65 by chap. 752, Laws 1894.*)

REPEAL.

§ 66. All acts or parts of acts local or general inconsistent with this act are hereby repealed. (*The number of this section was changed from 36 to 66 by chap. 752, Laws 1894.*)

§ 67. This act shall take effect immediately. (*The number of this section was changed from 37 to 67 by chap. 752, Laws 1894.*)

§ 10. Whenever it is expressly provided in the act hereby amended that any act of the board of rapid transit railroad commissioners shall be done by the concurrent vote of four of the members of said board, the act hereby amended is further amended so as to provide in such cases that such vote shall be that of six of such members. (*Thus amended by chap. 752, Laws 1894.*)

§ 11. The commissioners of rapid transit heretofore appointed under the act hereby amended, or who became such commissioners by its

terms, upon the organization of the board which shall succeed them pursuant to said act as hereby amended, shall cease to be such commissioners and shall transfer and deliver to the board of rapid transit railroad commissioners, provided for by the act hereby amended, as so amended, all furniture, books, maps, records, plans and other papers and property of what kind soever appertaining or belonging to or in the custody of the board of which they were commissioners, or in their possession, or under their control as such commissioners, or held by them, or for which they are responsible in their official capacity. The expenses incurred by said commissioners for which an appropriation or appropriations shall have been made pursuant to section ten of the act hereby amended, shall be paid upon vouchers to be furnished by said commissioners and otherwise, as provided in said section. Said commissioners shall also be entitled to receive a reasonable compensation for the services which have been rendered by them, which may have been, or which shall be, determined on their application in the manner provided for in said section. The comptroller, or other chief financial officer of said city, is hereby authorized and directed to issue and sell revenue bonds of such city in anticipation of the receipt of taxes, and out of the proceeds of such bonds to pay said compensation so ascertained and determined, and the amount necessary to pay the principal and interest of said bonds shall be included in the tax levy of said city for the year next following the issue and sale of the same. (*Thus amended by chap. 752, Laws 1894.*)

§ 12. The said board of rapid transit railway commissioners shall cause the question, whether such railway or railways shall be constructed by the city and at the public expense, to be submitted to the vote of the qualified electors of the city within which such railway or railways is or are to be constructed, and to that end it shall be the duty of the said board, after completion of the detailed plans and specifications, as required by the act hereby amended, at least thirty days prior to the next general election, to file with the public officer or officers within the county in which such city is located, who may be charged with the duty of printing the ballots to be used at such election, a request that separate ballots be printed and supplied to such electors, one-half in number of which shall read: "For municipal construction of rapid transit road," and the other half in number of said ballots shall read, "Against municipal construction of rapid transit road." Upon such request being so filed, such ballots shall be printed and supplied to such electors at such general election, and separate ballot boxes shall be provided for the reception of the same in each election district within such city, and the provisions of chapter six hundred and eighty of the laws of eighteen hundred and ninety-two,

entitled "An act in relation to the elections constituting chapter six of the general laws," and any act or acts amendatory thereof or supplemental thereto shall apply thereto as far as the nature of the case may allow. No ballot which may be provided under this section shall be deemed invalid by reason of an error in dimensions, style of printing, or other formal defect, or through having been deposited in the wrong ballot box, but all of such ballots shall be canvassed and returned as if such formal defect had not existed, or as if they had been deposited in the box provided for the purpose. Upon the canvass of such votes by the board of county canvassers of the county in which such city is located, it shall be the duty of said board to file with the county clerk of said county a statement which shall declare the total number of votes cast in said city "for municipal construction of rapid transit road," and the total number so cast therein "against municipal construction of rapid transit road." And the said railway or railways shall be constructed by the said city and at the public expense, if it shall be found from such statements so filed that there is a majority of the votes so cast in favor of such municipal construction. (*Thus amended by chap. 752, Laws 1894.*)

§ 13. In case the majority of votes cast at such election shall be in favor of such municipal construction of said railway or railways, it shall be the duty of said board of rapid transit railway commissioners within thirty days after the official declaration of the said vote to proceed to construct the said railway or railways, and to make and let all contracts required for the performance of the work necessary to be done and performed in and about the construction thereof. All such contracts must, before execution, be approved as to form by the counsel to the corporation, or other chief legal adviser for said city. (*Thus amended by chap. 752, Laws 1894.*)

§ 14. This act shall take effect immediately; except that the building of said road, or the sale of the franchises as provided for in sections seven and thirty-four of the act hereby amended, as so amended, is postponed until, and made dependent upon, the determination of that question by the vote of the people as called for by sections twelve and thirteen of this act. (*Thus amended by chap. 752, Laws 1894.*)

CHAP. 102, LAWS OF 1892.

AN ACT to amend chapter four of the laws of eighteen hundred and ninety-one, entitled "An act to provide for rapid transit railways in cities having over one million inhabitants."

§ 38a. The board of directors of any company incorporated for the purpose of constructing, maintaining or operating a bridge or bridges

connecting a city of more than one million inhabitants with any other city in this state, and by the act of incorporation of which authority shall have been conferred or intended to be conferred, to construct, maintain or operate, as a part of or in connection with its bridge, an approach or approaches thereto extending generally in an easterly and westerly direction, may determine in lieu of constructing such approach or approaches, to build, maintain and operate an elevated railway, the route of which shall be coincident with the route of such approach or approaches as defined in said act, and shall adopt a general plan for the construction thereof, and which shall show the general mode of operation, and contain such details as to manner of construction as may be necessary to show the extent to which any street, avenue, or other public place is to be encroached upon and the property abutting thereon affected, a copy of which plan shall be transmitted to the common council of the city in which the same is to be located. Such proceedings shall thereupon be had by such common council as are provided by section five of this act, as though such plans had been transmitted by the rapid transit commissioners as contemplated in said section. Provided, that where, in any such city the exclusive control of any street, route, highway or avenue, which is to be occupied by any railway or railways constructed under the provisions of this section is by law vested in any local authority other than the common council of such city, the approval of the aforesaid plans, and consent to the construction of a railway thereunder shall be given by such local authority in place of, and if required in addition to such approval and consent by such common council, and with like effect. Upon obtaining the approval and consent of the local authorities as in said section provided, the said board of directors shall take the necessary steps to obtain, if possible, the consent of the property owners along the line of the said route or routes, and all proceedings in respect of such consents or when such consents cannot be obtained shall be similar in all respects to the proceedings in said section provided. Any consent of the local authorities to construct or operate such railway shall be given only upon the condition that the rate of fare upon such elevated railway shall not exceed five cents for each passenger, and that payment of such fare shall entitle each passenger to and from such elevated railroad to free transit across the bridge or bridges with which it is intended to connect the same. When the consents of the local authorities and the property owners, or in lieu thereof, the authorization of the supreme court upon the report of the commissioners shall have been obtained, and the said company shall have accepted such condition it shall have all the powers of corporations formed under this act, it shall be authorized to build, construct, maintain

and operate such elevated railway or railways, but all provisions of this act, or of any act requiring the sale of the right, privilege and franchise of construction, maintaining and operating such railway or railways, or requiring a corporation or corporations to be organized for the purpose of acquiring such right, privilege and franchise, and all other provisions of this act or of any act inconsistent with this section, are hereby declared inapplicable to such elevated railway and to such company. The entire route of any elevated railway constructed under the provisions of this section shall not exceed three miles in length, nor shall any part of said railway, except at the termini thereof be less than sixteen feet above any street, avenue or public place, or less than fourteen feet above any existing elevated railway, which may be crossed, intervened or intersected thereby. The said railway may be located and constructed so as to cross any intersecting street, avenue, highway or place otherwise exempted, except that no public park shall be occupied or crossed thereby, the structure of such elevated railway shall be liable to taxation as provided by law for similar structures. (*Thus amended by changing the number of the section from 38 to 38a, by chap. 519, Laws 1895.*)

INTERSTATE COMMERCE ACT.

APPROVED FEBRUARY 4, 1887, AS AMENDED TO DATE.

CARRIERS AND TRANSPORTATION SUBJECT TO THE ACT.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of this act shall apply to any common carrier or carriers engaged in the transportation of passengers or property wholly by railroad, or partly by railroad and partly by water when both are used, under a common control, management, or arrangement, for a continuous carriage or shipment, from one state or territory of the United States, or the District of Columbia, to any other state or territory of the United States, or the District of Columbia, or from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States, and also to the transportation in like manner of property shipped from any place in the United States to a foreign country and carried from such place to a port of transshipment, or shipped from a foreign country to any place in the United States and carried to such place from a port of entry either in the United States or an adjacent foreign country: *Provided, however,* That the provisions of this act shall not apply to the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property, wholly within one state, and not shipped to or from a foreign country from or to any state or territory as aforesaid.

WHAT THE TERMS "RAILROAD" AND "TRANSPORTATION" INCLUDE.

The term "railroad" as used in this act shall include all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any corporation operating a railroad, whether owned or operated under a contract, agreement or lease; and the term "transportation" shall include all instrumentalities of shipment or carriage.

CHARGES MUST BE REASONABLE AND JUST.

All charges made for any service rendered or to be rendered in the transportation of passengers or property as aforesaid, or in connection

INTERSTATE COMME

therewith, or for the receiving, delivering property, shall be reasonable and just ; a able charge for such service is prohibited

UNJUST DISCRIMINATION DEFINED

§ 2. That if any common carrier subject shall, directly or indirectly, by any special device, charge, demand, collect, or require of any person or persons a greater or less compensation for service rendered, in the transportation of passengers or property, than it charges, demands, or receives of any other person or persons for doing for the same or for a similar or substantially similar service in the transportation of passengers or property under substantially similar circumstances and conditions, it shall be deemed guilty of unjust discrimination and declared to be unlawful.

UNDUE OR UNREASONABLE PREFERENCE BIDDEN.

§ 3. That it shall be unlawful for any common carrier subject to the provisions of this act to make or give any undue or unreasonable preference or advantage to any particular person or persons, or to any locality, or any particular description of property, or to subject any particular person or persons, or to any locality, or any particular description of property, to any undue or unreasonable prejudice or disadvantage in any such service.

FACILITIES FOR INTERCHANGE OF TRAFFIC

Every common carrier subject to the provisions of this act, according to their respective powers, shall afford equal facilities for the interchange of traffic between their lines and for the receiving, forwarding and delivery to and from their several lines and they shall not discriminate in their rates and charges for such service ; but this shall not be construed as requiring a carrier to give the use of its tracks or terminals to any person engaged in like business.

LONG AND SHORT HAUL PROVISION

§ 4. That it shall be unlawful for any common carrier subject to the provisions of this act to charge or receive an

aggregate for the transportation of passengers or of like kind of property, under substantially similar circumstances and conditions, for a shorter than for a longer distance over the same line, in the same direction, the shorter being included within the longer distance; but this shall not be construed as authorizing any common carrier within the terms of this act to charge and receive as great compensation for a shorter as for a longer distance: *Provided, however*, that upon application to the commission appointed under the provisions of this act, such common carrier may, in special cases, after investigation by the commission, be authorized to charge less for longer than for shorter distances for the transportation of passengers or property; and the commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section of this act.

POOLING OF FREIGHTS AND DIVISION OF EARNINGS FORBIDDEN.

§ 5. That it shall be unlawful for any common carrier subject to the provisions of this act to enter into any contract, agreement or combination with any other common carrier or carriers for the pooling of freights of different and competing railroads, or to divide between them the aggregate or net proceeds of the earnings of such railroads, or any portion thereof; and in any case of an agreement for the pooling of freights as aforesaid, each day of its continuance shall be deemed a separate offense.

PRINTING AND POSTING OF SCHEDULES OF RATE, FARES AND CHARGES.

§ 6. That every common carrier subject to the provisions of this act shall print and keep open to public inspection schedules showing the rates and fares and charges for the transportation of passengers and property which any such common carrier has established and which are in force at the time upon its route. The schedules printed as aforesaid by any such common carrier shall plainly state the places upon its railroad between which property and passengers will be carried, and shall contain the classification of freight in force, and shall also state separately the terminal charges and any rules or regulations which in any wise change, affect or determine any part or the aggregate of such aforesaid rates and fares and charges. Such schedules shall be plainly printed in large type, and copies for the use of the public shall be posted in two public and conspicuous places, in every depot, station, or office of such carrier where passengers or freight, respectively, are received for trans-

portation, in such form that they shall be accessible to the public and can be conveniently inspected.

PRINTING AND POSTING OF SCHEDULES OF RATES ON FREIGHT CARRIED THROUGH A FOREIGN COUNTRY.

Any common carrier subject to the provisions of this act receiving freight in the United States to be carried through a foreign country to any place in the United States shall also in like manner print and keep open to public inspection, at every depot or office where such freight is received for shipment, schedules showing the through rates established and charged by such common carrier to all points in the United States beyond the foreign country to which it accepts freight for shipment; and any freight shipped from the United States through a foreign country into the United States, the through rate on which shall not have been made public as required by this act, shall, before it is admitted into the United States from said foreign country, be subject to customs duties as if said freight were of foreign production; and any law in conflict with this section is hereby repealed.

TEN DAYS' PUBLIC NOTICE OF ADVANCE IN RATES MUST BE GIVEN; THREE DAYS' PUBLIC NOTICE OF REDUCTION IN RATES MUST BE GIVEN.

No advance shall be made in the rates, fares and charges which have been established and published as aforesaid by any common carrier in compliance with the requirements of this section, except after ten days' public notice, which shall plainly state the changes proposed to be made in the schedule then in force, and the time when the increased rates, fares, or charges will go into effect; and the proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection. Reductions in such published rates, fares, or charges shall only be made after three days' previous public notice, to be given in the same manner that notice of an advance in rates must be given.

PUBLISHED RATES NOT TO BE DEVIATED FROM.

And when any such common carrier shall have established and published its rates, fares, and charges in compliance with the provisions of this section, it shall be unlawful for such common carrier to charge, demand, collect, or receive from any person or persons a greater or less compensation for the transportation of passengers or property, or for any services in connection therewith, than is specified in such published schedule of rates, fares and charges as may at the time be in force.

COPIES OF SCHEDULES OF RATES, FARES AND CHARGES MUST BE FILED WITH COMMISSION; COPIES OF CONTRACTS, AGREEMENTS AND ARRANGEMENT MUST BE FILED WITH COMMISSION; JOINT TARIFFS MUST BE FILED WITH COMMISSION; POWER OF COMMISSION TO PRESCRIBE PUBLICITY.

Every common carrier subject to the provisions of this act shall file with the commission hereinafter provided for copies of its schedules of rates, fares and charges which have been established and published in compliance with the requirements of this section, and shall promptly notify said commission of all changes made in the same. Every such common carrier shall also file with said commission copies of all contracts, agreements or arrangements, with other common carriers in relation to any traffic affected by the provisions of this act to which it may be a party. And in cases where passengers and freight pass over continuous lines or routes operated by more than one common carrier, and the several common carriers operating such lines or routes establish joint tariffs of rates or fares or charges for such continuous lines or routes, copies of such joint tariffs shall also, in like manner, be filed with said commission. Such joint rates, fares and charges on such continuous lines so filed as aforesaid shall be made public by such common carriers when directed by said commission, in so far as may, in the judgment of the commission, be deemed practicable; and said commission shall from time to time prescribe the measure of publicity which shall be given to such rates, fares and charges, or to such part of them as it may deem it practicable for such common carriers to publish, and the places in which they shall be published.

TEN DAYS' NOTICE TO COMMISSION OF ADVANCE IN JOINT RATES, FARES AND CHARGES; THREE DAYS' NOTICE TO COMMISSION OF REDUCTION IN JOINT RATES, FARES AND CHARGES; POWER OF COMMISSION TO MAKE ADVANCES OR REDUCTIONS PUBLIC.

No advance shall be made in joint rates, fares and charges, shown upon joint tariffs, except after ten days' notice to the commission, which shall plainly state the changes proposed to be made in the schedule then in force, and the time when the increased rates, fares or charges will go into effect. No reduction shall be made in joint rates, fares and charges, except after three days' notice, to be given to the commission as is above provided in the case of an advance of joint rates. The commission may make public such proposed advances, or such reductions, in such manner as may, in its judgment, be deemed practicable, and may prescribe from

time to time the measure of publicity which common carriers shall give to advances or reductions in joint tariffs.

JOINT RATES, FARES AND CHARGES NOT TO BE DEVIATED FROM.

It shall be unlawful for any common carrier, party to any joint tariff, to charge, demand, collect or receive from any person or persons, a greater or less compensation for the transportation of persons or property, or for any services in connection therewith, between any points as to which a joint rate, fare or charge is named thereon than is specified in the schedule filed with the commission in force at the time.

COMMISSION MAY PRESCRIBE FORMS OF SCHEDULES OF RATES, FARES AND CHARGES.

The commission may determine and prescribe the form in which the schedules required by this section to be kept open to public inspection shall be prepared and arranged, and may change the form from time to time as shall be found expedient.

PENALTIES FOR NEGLECT OR REFUSAL TO FILE OR PUBLISH RATES, FARES AND CHARGES.

If any such common carrier shall neglect or refuse to file or publish its schedules or tariffs of rates, fares and charges as provided in this section, or any part of the same, such common carrier shall, in addition to other penalties herein prescribed, be subject to a writ of mandamus, to be issued by any circuit court of the United States in the judicial district wherein the principal office of said common carrier is situated, or wherein such offense may be committed, and if such common carrier be a foreign corporation in the judicial circuit wherein such common carrier accepts traffic and has an agent to perform such service, to compel compliance with the aforesaid provisions of this section; and such writ shall issue in the name of the people of the United States at the relation of the commissioners appointed under the provisions of this act; and the failure to comply with its requirements shall be punishable as and for a contempt; and the said commissioners, as complainants, may also apply, in any such circuit court of the United States, for a writ of injunction against such common carrier, to restrain such common carrier from receiving or transporting property among the several states and territories of the United States, or between the United States and adjacent foreign countries, or between ports of transshipment and of entry and the several states and territories of the United States, as mentioned in the first section of this act, until such common carrier shall have complied with the aforesaid provisions of this section of this act.

CONTINUOUS CARRIAGE OF FREIGHTS NOT TO BE UNNECESSARILY INTERRUPTED.

§ 7. That it shall be unlawful for any common carrier subject to the provisions of this act to enter into any combination, contract or agreement, expressed or implied, to prevent, by change of time schedule, carriage in different cars, or by other means or devices, the carriage of freights from being continuous from the place of shipment to the place of destination; and no break of bulk, stoppage, or interruption made by such common carrier shall prevent the carriage of freights from being and being treated as one continuous carriage from the place of shipment to the place of destination, unless such break, stoppage, or interruption was made in good faith for some necessary purpose, and without any intent to avoid or unnecessarily interrupt such continuous carriage or to evade any of the provisions of this act.

LIABILITY OF COMMON CARRIERS FOR DAMAGES.

§ 8. That in case any common carrier subject to the provisions of this act shall do, cause to be done, or permit to be done any act, matter or thing in this act prohibited or declared to be unlawful, or shall omit to do any act, matter or thing in this act required to be done, such common carrier shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of any such violation of the provisions of this act, together with a reasonable counsel or attorney's fee, to be fixed by the court in every case of recovery, which attorney's fee shall be taxed and collected as part of the costs in the case.

PERSONS CLAIMING TO BE DAMAGED MAY COMPLAIN TO COMMISSION OR BRING SUIT IN UNITED STATES COURTS; OFFICERS, ETC., OF DEFENDANT MAY BE COMPELLED TO TESTIFY.

§ 9. That any person or persons claiming to be damaged by any common carrier subject to the provisions of this act may either make complaint to the commission as hereinafter provided for, or may bring suit in his or their own behalf for the recovery of the damages for which such common carrier may be liable under the provisions of this act, in any district or circuit court of the United States of competent jurisdiction; but such person or persons shall not have the right to pursue both of said remedies, and must in each case elect which one of the two methods of procedure herein provided for he or they will adopt. In any such action brought for the recovery of damages the court before which the same shall be pending may compel any director, officer, receiver, trustee, or agent of the corporation or company defendant in such suit

to attend, appear, and testify in such case, and production of the books and papers of such corporation in any such suit; the claim that any such testimony tends to criminate the person giving such evidence, or the refusal of such person to testify, shall not be a defense to such person from testifying, but such evidence or testimony shall not be taken against such person on the trial of any criminal case.

**PENALTIES FOR VIOLATIONS OF ACT
OFFICERS OR AGENTS; FINE AND IMPRISONMENT.**

§ 10. That any common carrier subject to this act, or, whenever such common carrier is a corporation, any officer thereof, or any receiver, trustee, lessee, agent, or employee of such corporation, who, in violation of this act, shall willfully or shall willingly suffer or permit to be done, any act prohibited or declared to be unlawful by this act, or shall willfully omit or fail to do any act required to be done, or shall cause any act, matter or thing so directed or required to be so done, or shall aid or abet any such violation, or shall be guilty of any infraction of this act, or shall be deemed guilty of a misdemeanor, and shall be liable to any district court of the United States within which such offense was committed, be subject to a fine of not more than one thousand dollars for each offense: *Provided*, that if any person shall be convicted as aforesaid shall be liable to a fine, or to imprisonment in rates, fares, or charges, for the transportation of property, such person shall, in addition to the fine or imprisonment, be liable to imprisonment in the penitentiary for a term not exceeding two years, or both such fine and imprisonment, at the discretion of the court.

**PENALTIES FOR FALSE BILLING, ETC.
OFFICERS OR AGENTS; FINE AND IMPRISONMENT.**

Any common carrier subject to the provisions of this act, or, whenever such common carrier is a corporation, any officer thereof, or any receiver, trustee, lessee, agent, or employee of such corporation, who, in violation of this act, shall willfully or shall willingly suffer or permit any person or persons to do any act prohibited or declared to be unlawful by this act, or shall willfully omit or fail to do any act required to be done, or shall cause any act, matter or thing so directed or required to be so done, or shall aid or abet any such violation, or shall be guilty of any infraction of this act, or shall be deemed guilty of a misdemeanor, and shall be liable to any district court of the United States within which such offense was committed, be subject to a fine of not more than one thousand dollars for each offense: *Provided*, that if any person shall be convicted as aforesaid shall be liable to a fine, or to imprisonment in rates, fares, or charges, for the transportation of property, such person shall, in addition to the fine or imprisonment, be liable to imprisonment in the penitentiary for a term not exceeding two years, or both such fine and imprisonment, at the discretion of the court.

guilty of a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed, be subject to a fine of not exceeding five thousand dollars, or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court, for each offense.

PENALTIES FOR FALSE BILLING, ETC., BY SHIPPERS AND OTHER PERSONS; FINE AND IMPRISONMENT

Any person and any officer or agent of any corporation or company who shall deliver property for transportation to any common carrier, subject to the provisions of this act, or for whom as consignor or consignee any such carrier shall transport property, who shall knowingly and willfully, by false billing, false classification, false weighing, false representation of the contents of the package, or false report of weight, or by any other devise or means, whether with or without the consent or connivance of the carrier, its agent or agents, obtain transportation for such property at less than the regular rates then established and in force on the line of transportation, shall be deemed guilty of fraud, which is hereby declared to be a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed, be subject for each offense to a fine of not exceeding five thousand dollars or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court.

PENALTIES FOR INDUCING COMMON CARRIERS TO DISCRIMINATE UNJUSTLY; FINE AND IMPRISONMENT; JOINT LIABILITY WITH CARRIER FOR DAMAGES.

If any such person, or any officer or agent of any such corporation or company, shall, by payment of money or other thing of value, solicitation, or otherwise induce any common carrier subject to the provisions of this act, or any of its officers or agents, to discriminate unjustly in his, its, or their favor as against any other consignor or consignee in the transportation of property, or shall aid or abet any common carrier in any such unjust discrimination, such person or such officer or agent of such corporation or company shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed, be subject to a fine of not exceeding five thousand dollars or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court, for each offense; and such person, corporation, or company shall also, together with said common

INTERSTATE COMMERCE

carrier, be liable jointly or severally, in any suit brought by any consignor or consignee, in any court of the United States of competent jurisdiction, caused by or resulting therefrom. (*Thus amended*)

INTERSTATE COMMERCE COMMISSION TERMS OF COMMISSIONERS.

§ 11. That a commission is hereby created, to be known as the Interstate Commerce Commission, composed of five commissioners, who shall be appointed by and with the advice and consent of the Senate. The first appointed under this act shall continue in office two, three, four, five and six years, respectively, commencing on January 1, anno Domini eighteen hundred and ninety-two, each to be designated by the President; but no commissioner shall be appointed for terms of six years, except that a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed. Any commissioner appointed by the President for inefficiency, neglect of duty, or other cause, shall be removed by the President. Not more than three of the commissioners shall be members of the same political party. No person in the employment of, or in any relation to any common carrier subject to the provisions of this act, or owning stocks or bonds thereof, or who is interested therein, shall enter upon the duties of a commissioner. Said commissioners shall not engage in any other employment. No vacancy in the commission shall prevent the remaining commissioners to exercise all the powers and

POWER AND DUTY OF COMMISSION IN REGULATION OF BUSINESS OF CARRIERS; COMMISSION SHALL ENFORCE THE PROVISIONS OF THE COMMISSION TO REQUIRE REASONABLE RATES AND PRODUCTION OF BOOKS

§ 12. That the commission hereby created shall have the power to inquire into the management of the business of common carriers subject to the provisions of this act, and shall keep a record of the manner and method in which the same is conducted, and the right to obtain from such common carriers full and complete information necessary to enable the commission to perform the objects for which it was created; and the commission is authorized and required to execute and enforce the provisions of this act; and, upon the request of the commission, the district attorney of the United States to w

tion of the Attorney-General of the United States, all necessary proceedings for the enforcement of the provisions of this act and for the punishment of all violations thereof; and the costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States; and for the purposes of this act the commission shall have power to require, by subpoena, the attendance and testimony of witnesses and the production of all books, papers, tariffs, contracts, agreements, and documents relating to any matter under investigation.

Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. And in case of disobedience to a subpoena, the commission, or any party to a proceeding before the commission, may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers and documents under the provisions of this section. (*As amended March 2, 1889, and February 10, 1891.*)

PUNISHMENT FOR REFUSAL TO TESTIFY OR PRODUCE BOOKS AND PAPERS.

And any of the circuit courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any common carrier subject to the provisions of this act, or other person, issue an order requiring such common carrier or other person to appear before said commission (and produce books and papers if so ordered) and give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. The claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying; but such evidence or testimony shall not be used against such person in the trial of any criminal proceeding.

COMMISSION MAY ORDER TESTIMONY TO BE TAKEN BY DEPOSITION.

The testimony of any witness may be taken, at the instance of a party in any proceeding or investigation depending before the commission, by deposition, at any time after a cause or proceeding is at issue on petition and answer. The commission may also order testimony to be taken by deposition in any proceeding or investigation pending before it, at any stage of such proceeding or investigation. Such depositions may be taken before any judge of any court of the United States, or any com-

missioner of a circuit, or any clerk of a district or circuit court, or any chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any of the United States, or any notary public, not being of counsel or attorney to either of the parties, nor interested in the event of the proceeding or investigation. Reasonable notice must first be given in writing by the party or his attorney proposing to take such deposition to the opposite party or his attorney of record, as either may be nearest, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce documentary evidence, in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the commission as hereinbefore provided.

Every person deposing as herein provided shall be cautioned and sworn (or affirm, if he so request) to testify the whole truth, and shall be carefully examined. His testimony shall be reduced to writing by the magistrate taking the deposition, or under his direction, and shall, after it has been reduced to writing, be subscribed by the deponent.

If a witness whose testimony may be desired to be taken by deposition be in a foreign country, the deposition may be taken before an officer or person designated by the commission, or agreed upon by the parties by stipulation in writing to be filed with the commission. All depositions must be promptly filed with the commission.

Witnesses whose depositions are taken pursuant to this act, and the magistrate or other officer taking the same, shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

**COMPLAINTS TO COMMISSION; HOW AND BY WHOM MADE;
REPARATION BY CARRIERS BEFORE INVESTIGATION; IN-
VESTIGATIONS BY THE COMMISSION.**

§ 13. That any person, firm, corporation or association, or any mercantile, agricultural or manufacturing society, or any body politic or municipal organization complaining of anything done or omitted to be done by any common carrier subject to the provisions of this act in contravention of the provisions thereof, may apply to said commission by petition, which shall briefly state the facts; whereupon a statement of the charges thus made shall be forwarded by the commission to such common carrier, who shall be called upon to satisfy the complaint or to answer the same in writing within a reasonable time, to be specified by the commission. If such common carrier, within the time specified, shall make reparation for the injury alleged to have been done, said carrier shall be relieved of

liability to the complainant only for the particular violation of law thus complained of. If such carrier shall not satisfy the complaint within the time specified, or there shall appear to be any reasonable ground for investigating said complaint, it shall be the duty of the commission to investigate the matters complained of in such manner and by such means as it shall deem proper.

Said commission shall in like manner investigate any complaint forwarded by the railroad commissioner or railroad commission of any state or territory at the request of such commissioner or commission, and may institute any inquiry on its own motion in the same manner and to the same effect as though complaint had been made.

No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

FINDINGS OF COMMISSION PRIMA FACIE EVIDENCE IN JUDICIAL PROCEEDINGS.

§ 14. That whenever an investigation shall be made by said commission, it shall be its duty to make a report in writing in respect thereto, which shall include the findings of fact upon which the conclusions of the commission are based, together with its recommendation as to what reparation, if any, should be made by the common carrier to any party or parties who may be found to have been injured, and such findings so made shall thereafter, in all judicial proceedings, be deemed prima facie evidence as to each and every fact found.

All reports of investigations made by the commission shall be entered of record, and a copy thereof shall be furnished to the party who may have complained, and to any common carrier that may have been complained of. (*Thus amended March 2, 1889.*)

REPORTS AND DECISIONS; AUTHORIZED PUBLICATION TO BE COMPETENT EVIDENCE; PUBLICATION AND DISTRIBUTION OF ANNUAL REPORTS OF COMMISSION.

The commission may provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use, and such authorized publications shall be competent evidence of the reports and decisions of the commission therein contained, in all courts of the United States, and of the several states, without any further proof or authentication thereof. The commission may also cause to be printed for early distribution its annual reports.

NOTICE TO COMMON CARRIERS TO CEASE FROM VIOLATION OF ACT; COMPLIANCE WITH NOTICE TO CEASE FROM VIOLATION OF ACT; REPARATION.

§ 15. That if in any case in which an investigation shall be made by said commission it shall be made to appear to the satisfaction of the com-

mission, either by the testimony of witnesses or other evidence, that anything has been done or omitted to be done in violation of the provisions of this act, or of any law cognizable by said commission, by any common carrier, or that any injury or damage has been sustained by the party or parties complaining, or by other parties aggrieved in consequence of any such violation, it shall be the duty of the commission to forthwith cause a copy of its report in respect thereto to be delivered to such common carrier, together with a notice to said common carrier to cease and desist from such violation, or to make reparation for the injury so found to have been done, or both, within a reasonable time, to be specified by the commission; and if, within the time specified, it shall be made to appear to the commission that such common carrier has ceased from such violation of law, and has made reparation for the injury found to have been done in compliance with the report and notice of the commission, or to the satisfaction of the party complaining, a statement to that effect shall be entered of record by the commission and the said common carrier shall thereupon be relieved from further liability or penalty for such particular violation of law.

PETITION TO UNITED STATES COURTS IN CASES OF DISOBEDIENCE TO ORDER OF COMMISSION; POWER OF UNITED STATES COURTS TO HEAR AND DETERMINE CASES OF DISOBEDIENCE; WRITS OF INJUNCTION OR OTHER PROCESS AGAINST CARRIERS IN CASES OF DISOBEDIENCE; PUNISHMENT FOR REFUSAL TO OBEY WRITS OF INJUNCTION OR OTHER PROPER PROCESS; FINE; APPEALS TO SUPREME COURT OF UNITED STATES.

§ 16. That whenever any common carrier, as defined in and subject to the provisions of this act, shall violate, or refuse or neglect to obey or perform any lawful order or requirement of the commission created by this act, not founded upon a controversy requiring a trial by jury, as provided by the seventh amendment to the constitution of the United States, it shall be lawful for the commission or for any company or person interested in such order or requirement to apply in a summary way, by petition, to the circuit court of the United States sitting in equity in the judicial district in which the common carrier complained of has its principal office, or in which the violation or disobedience of such order or requirement shall happen, alleging such violation or disobedience, as the case may be; and the said court shall have power to hear and determine the matter, on such short notice to the common carrier complained of as the court shall deem reasonable; and such notice may be served on such common carrier, his or its officers, agents or servants in such manner as the court shall direct; and said court shall proceed to hear and deter-

mine the matter speedily as a court of equity, and without the formal pleadings and proceedings applicable to ordinary suits in equity, but in such manner as to do justice in the premises; and to this end such court shall have power, if it think fit, to direct and prosecute in such mode and by such persons as it may appoint, all such inquiries as the court may think needful to enable it to form a just judgment in the matter of such petition; and on such hearing the findings of fact in the report of said commission shall be prima facie evidence of the matters therein stated; and if it be made to appear to such court, on such hearing or on report of any such person or persons, that the lawful order or requirement of said commission drawn in question has been violated or disobeyed, it shall be lawful for such court to issue a writ of injunction or other proper process, mandatory or otherwise, to restrain such common carrier from further continuing such violation or disobedience of such order or requirement of said commission, and enjoining obedience to the same; and in case of any disobedience of any such writ of injunction or other proper process, mandatory or otherwise, it shall be lawful for such court to issue writs of attachment, or any other process of said court incident or applicable to writs of injunction or other proper process, mandatory or otherwise, against such common carrier, and if a corporation, against one or more of the directors, officers, or agents of the same, or against any owner, lessee, trustee, receiver, or other person failing to obey such writ of injunction, or other proper process, mandatory or otherwise; and said court may, if it shall think fit, make an order directing such common carrier or other person so disobeying such writ of injunction or other proper process, mandatory or otherwise, to pay such sum of money not exceeding for each carrier or person in default the sum of five hundred dollars for every day, after a day to be named in the order, that such carrier or other person shall fail to obey such injunction or other proper process, mandatory or otherwise; and such moneys shall be payable as the court shall direct, either to the party complaining or into court to abide the ultimate decision of the court, or into the treasury; and payment thereof may, without prejudice to any other mode of recovering the same, be enforced by attachment or order in the nature of a writ of execution, in like manner as if the same had been recovered by a final decree in personam in such court. When the subject in dispute shall be of the value of two thousand dollars or more, either party to such proceeding before said court may appeal to the Supreme Court of the United States, under the same regulations now provided by law in respect of security for such appeal; but such appeal shall not operate to stay or supersede the order of the court or the execution of any writ or process thereon; and such court may, in every such matter, order the payment of such costs and counsel fees as

shall be deemed reasonable. Whenever any such petition shall be filed or presented by the commission it shall be the duty of the district attorney, under the direction of the attorney-general of the United States, to prosecute the same; and the costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States. (*As amended March 3, 1889.*)

PETITION TO UNITED STATES COURTS IN CASES OF DISOBEDIENCE WHEN TRIAL BY JURY IS NECESSARY; TRIAL BY JURY; TRIAL BY COURT; APPEALS TO SUPREME COURT OF UNITED STATES; COUNSEL OR ATTORNEY'S FEES.

If the matters involved in any such order or requirement of said commission are founded upon a controversy requiring a trial by jury, as provided by the seventh amendment to the Constitution of the United States, and any such common carrier shall violate or refuse or neglect to obey or perform the same, after notice given by said commission as provided in the fifteenth section of this act, it shall be lawful for any company or person interested in such order or requirement to apply in a summary way by petition to the Circuit Court of the United States sitting as a court of law in the judicial district in which the carrier complained of has its principal office, or in which the violation or disobedience of such order or requirement shall happen, alleging such violation or disobedience as the case may be; and said court shall by its order then fix a time and place for the trial of said cause, which shall not be less than twenty nor more than forty days from the time said order is made, and it shall be the duty of the marshal of the district in which said proceeding is pending to forthwith serve a copy of said petition, and of said order, upon each of the defendants, and it shall be the duty of the defendants to file their answers to said petition within ten days after the service of the same upon them as aforesaid. At the trial the findings of fact of said commission as set forth in its report shall be prima facie evidence of the matters therein stated, and if either party shall demand a jury or shall omit to waive a jury, the court shall, by its order, direct the marshal forthwith to summon a jury to try the cause; but if all the parties shall waive a jury in writing, then the court shall try the issues in said cause and render its judgment thereon. If the subject in dispute shall be of the value of two thousand dollars or more, either party may appeal to the Supreme Court of the United States under the same regulations now provided by law in respect to security for such appeal; but such appeal must be taken within twenty days from the day of the rendition of the judgment of said Circuit Court. If the judgment of the Circuit

Court shall be in favor of the party complaining, he or they shall be entitled to recover a reasonable counsel or attorney's fee to be fixed by the court, which shall be collected as part of the costs in the case. For the purposes of this act, excepting its penal provisions, the Circuit Courts of the United States shall be deemed to be always in session. (*Thus amended March 2, 1889.*)

**INTERSTATE COMMERCE COMMISSION—FORM OF PROCEDURE;
OFFICIAL SEAL.**

§ 17. That the commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice. A majority of the commission shall constitute a quorum for the transaction of business, but no commissioner shall participate in any hearing or proceeding in which he has any pecuniary interest. Said commission may, from time to time, make or amend such general rules or orders as may be requisite for the order and regulation of proceedings before it, including forms of notices and the service thereof, which shall conform, as nearly as may be, to those in use in the courts of the United States. Any party may appear before said commission and be heard, in person or by attorney. Every vote and official act of the commission shall be entered of record, and its proceedings shall be public upon the request of either party interested. Said commission shall have an official seal, which shall be judicially noticed. Either of the members of the commission may administer oaths and affirmations and sign subpoenas. (*Thus amended March 2, 1889.*)

**SALARIES OF COMMISSIONERS; SECRETARY—HOW AP-
POINTED; SALARY; OFFICES AND SUPPLIES; WITNESS
FEES.**

§ 18. That each commissioner shall receive an annual salary of seven thousand five hundred dollars, payable in the same manner as the judges of the courts of the United States. The commission shall appoint a secretary, who shall receive an annual salary of three thousand five hundred dollars, payable in like manner. The commission shall have authority to employ and fix the compensation of such other employes as it may find necessary to the proper performance of its duties. Until otherwise provided by law, the commission may hire suitable offices for its use, and shall have authority to procure all necessary office supplies. Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

EXPENSES OF THE COMMISSION—HOW PAID.

All of the expenses of the commission, including all necessary expenses for transportation incurred by the commissioners or by their employes under their orders, in making any investigation, or upon official business in any other places than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor, approved by the chairman of the commission. (*Thus amended March 2, 1889.*)

PRINCIPAL OFFICE OF THE COMMISSION—SESSIONS OF THE COMMISSION.

§ 19. That the principal office of the commission shall be in the city of Washington, where its general sessions shall be held; but whenever the convenience of the public or the parties may be promoted or delay or expense prevented thereby, the commission may hold special sessions in any part of the United States. It may, by one or more of the commissioners, prosecute any inquiry necessary to its duties, in any part of the United States, into any matter or question of fact pertaining to the business of any common carrier subject to the provisions of this act.

CARRIERS SUBJECT TO THE ACT MUST RENDER FULL ANNUAL REPORTS TO COMMISSION; COMMISSION MAY PRESCRIBE METHODS OF KEEPING ACCOUNTS.

§ 20. That the commission is hereby authorized to require annual reports from all common carriers subject to the provisions of this act, to fix the time and prescribe the manner in which such reports shall be made, and to require from such carriers specific answers to all questions upon which the commission may need information. Such annual reports shall show in detail the amount of capital stock issued, the amounts paid therefor, and the manner of payment for the same; the dividends paid, the surplus fund, if any, and the number of stockholders; the funded and floating debts and the interest paid thereon; the cost and value of the carrier's property, franchises and equipments; the number of employes and the salaries paid each class, the amounts expended for improvements each year, how expended and the character of such improvements; the earnings and receipts from each branch of business and from all sources; the operating and other expenses; the balances of profit and loss; and a complete exhibit of the financial operations of the carrier each year, including an annual balance sheet. Such report shall also contain such information in relation to rates or regulations concern-

ing fares or freights, or agreements, arrangements or contracts with other common carriers, as the commission may require; and the said commission may, within its discretion, for the purpose of enabling it the better to carry out the purposes of this act, prescribe (if in the opinion of the commission it is practicable to prescribe such uniformity and methods of keeping accounts) a period of time within which all common carriers subject to the provisions of this act shall have, as near as may be, a uniform system of accounts, and the manner in which such accounts shall be kept.

ANNUAL REPORTS OF THE COMMISSION TO CONGRESS.

§ 21. That the commission shall, on or before the first day of December in each year, make a report, which shall be transmitted to congress, and copies of which shall be distributed as are the other reports transmitted to congress. This report shall contain such information and data collected by the commission as may be considered of value in the determination of questions connected with the regulation of commerce, together with such recommendations as to additional legislation relating thereto as the commission may deem necessary; and the names and compensation of the persons employed by said commission. (*Thus amended March 2, 1889.*)

PERSONS AND PROPERTY THAT MAY BE CARRIED FREE OR AT REDUCED RATES; MILEAGE, EXCURSION, OR COMMUTATION PASSENGER TICKETS; PASSES AND FREE TRANSPORTATION TO OFFICERS AND EMPLOYEES OF RAILROAD COMPANIES; PENDING LITIGATION NOT AFFECTED BY ACT—JOINT INTERCHANGEABLE FIVE-THOUSAND-MILE TICKETS. AMOUNT OF FREE BAGGAGE—PUBLICATION OF RATES—SALE OF TICKETS—PENALTIES.

§ 22. That nothing in this act shall prevent the carriage, storage or handling of property free or at reduced rates for the United States, state or municipal governments, or for charitable purposes, or to or from fairs and expositions for exhibition thereat, or the free carriage of destitute and homeless persons transported by charitable societies, and the necessary agents employed in such transportation, or the issuance of mileage, excursion or commutation passenger tickets; nothing in this act shall be construed to prohibit any common carrier from giving reduced rates to ministers of religion, or to municipal governments for the transportation of indigent persons, or to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers, and of Soldiers and Sailors' Orphan Homes, including those about to enter and those returning home after dis-

charge, under arrangement with the homes; nothing in this act shall be construed to prevent the principal officers of any railroad from exchanging passes or tickets with their officers and employes; and nothing in any way abridge or alter the remedies now in law or by statute, but the provisions of such remedies: *Provided*, That no person shall be affected by this act. *Provided further*, That it shall prevent the issuance of joint interline tickets, with special privileges as to mileage that may be carried under mileage tickets. But before any common carrier under this act, shall issue any such joint interline tickets with special privileges, as aforesaid, it shall file with the Commerce Commission copies of the joint rates, charges on which such joint interchange tickets may be based, together with specifications of the mileage permitted to be carried under such tickets. And all common carriers are required to do what is required by section six of this act; and all the provisions relating to joint rates, fares, and charges on common carriers and enforced by the Interstate Commerce Commission as fully with regard to such joint interchange tickets as with regard to other joint interchange tickets referred to in said section six. It shall be unlawful for any carrier that has issued or authorized to issue interchangeable mileage tickets to demand of any person or persons a greater or less fare for the transportation of persons or baggage under such tickets than that required by the rate of fare shown on the copies of the joint tariff of rates, fares, and charges of the Commission in force at the time. The provisions of this act shall apply to any violation of the provisions of this act.

**JURISDICTION OF UNITED STATES
COURTS IN CASES
OF PEREMPTORY MANDAMUS
AND INJUNCTION
IN CONNECTION WITH
TRAFFIC OF
PASSENGERS AND
FREIGHT BY
RAILROADS,
OR BY
WATER OR
BY AIR
OR BY
ANY OTHER
MODE OF
TRANSPORTATION**

(*New section.*) That the circuit and district courts shall have jurisdiction upon the relation of any person or corporation, alleging such violation by

the provisions of the act to which this is a supplement and all acts amendatory thereof, as prevents the relator from having interstate traffic moved by said common carrier at the same rates as are charged, or upon terms or conditions as favorable as those given by said common carrier for like traffic under similar conditions to any other shipper, to issue a writ or writs of mandamus against said common carrier, commanding such common carrier to move and transport the traffic, or to furnish cars or other facilities for transportation for the party applying for the writ: *Provided*, that if any question of fact as to the proper compensation to the common carrier for the service to be enforced by the writ is raised by the pleadings, the writ of peremptory mandamus may issue, notwithstanding such question of fact is undetermined, upon such terms as to security, payment of money into the court, or otherwise, as the court may think proper, pending the determination of the question of fact: *Provided*, that the remedy hereby given by writ of mandamus shall be cumulative, and shall not be held to exclude or interfere with other remedies provided by this act or the act to which it is a supplement.

Public No. 41, approved February 4, 1887, as amended by Public No. 123, approved March 2, 1889, and Public No. 72, approved February 10, 1891. Public No. 38, approved February 8, 1895.

AN ACT in relation to testimony before
mission, and in cases or proceedings
entitled "An act to regulate commerce
eighteen hundred and eighty-seven, an

*Be it enacted by the Senate and House
States of America in Congress assembled*
excused from attending and testifying
papers, tariffs, contracts, agreements
Interstate Commerce Commission, or
pœna of the commission, whether such s
one or more commissioners, or in any c
otherwise, based upon or growing out of
of Congress, entitled "An act to regulate
fourth, eighteen hundred and eighty-seve
on the ground or for the reason that the t
tary or otherwise, required of him, may t
him to a penalty or forfeiture. But no
subjected to any penalty or forfeiture for
tion, matter or thing, concerning which
dence, documentary or otherwise, before s
to its subpœna, or the subpœna of either
proceeding: *Provided*, that no person so
prosecution and punishment for perjury o

Any person who shall neglect or refus
answer any lawful inquiry, or to produce
agreements and documents, if in his powe
subpœna or lawful requirement of the co
offense, and upon conviction thereof by a
shall be punished by fine not less than one
five thousand dollars, or by imprisonment
by both such fine and imprisonment. (A
11, 1893.)

AUTOMATIC COUPLERS AND CONTIN

AN ACT to promote the safety of employ
by compelling common carriers engag
equip their cars with automatic couple
their locomotives with driving-wheel bra

That from and after the first day of]
ninety-eight, it shall be unlawful for any c
terstate commerce by railroad to use on

in moving interstate traffic not equipped with a power driving-wheel brake and appliances for operating the train-brake system, or to run any train in such traffic after said date that has not a sufficient number of cars in it so equipped with power or train brakes that the engineer on the locomotive drawing such train can control its speed without requiring brakemen to use the common hand brake for that purpose.

§ 2. That on and after the first day of January, eighteen hundred and ninety-eight, it shall be unlawful for any such common carrier to haul or permit to be hauled or used on its line any car used in moving interstate traffic not equipped with couplers coupling automatically by impact, and which can be uncoupled without the necessity of men going between the ends of the cars.

§ 3. That when any person, firm, company, or corporation engaged in interstate commerce by railroad shall have equipped a sufficient number of its cars so as to comply with the provisions of section one of this act, it may lawfully refuse to receive from connecting lines of road or shippers any cars not equipped sufficiently, in accordance with the first section of this act, with such power or train brakes as will work and readily interchange with the brakes in use on its own cars, as required by this act.

§ 4. That from and after the first day of July, eighteen hundred and ninety-five, until otherwise ordered by the Interstate Commerce Commission, it shall be unlawful for any railroad company to use any car in interstate commerce that is not provided with secure grab irons or hand-holds in the ends and sides of each car for greater security to men in coupling and uncoupling cars.

§ 5. That within ninety days from the passage of this act the American Railway Association is authorized hereby to designate to the Interstate Commerce Commission the standard height of drawbars for freight cars, measured perpendicular from the level of the tops of the rails to the centers of the drawbars, for each of the several gauges of railroad in use in the United States, and shall fix a maximum variation from such standard height to be allowed between the drawbars of empty and loaded cars. Upon their determination being certified to the Interstate Commerce Commission, said commission shall at once give notice of the standard fixed upon to all common carriers, owners, or lessees engaged in interstate commerce in the United States by such means as the commission may deem proper. But should said association fail to determine a standard as above provided, it shall be the duty of the Interstate Commerce Commission to do so, before July first, eighteen hundred and ninety-four, and immediately to give notice thereof as aforesaid. And after July first, eighteen hundred and ninety-five, no cars either loaded or unloaded, shall be used in interstate traffic which do not comply with the standard above provided for.

PENALTY FOR VIOLATION OF THE PROVISIONS OF THIS ACT.

§ 6. That any such common carrier using any locomotive engine, running any train, or hauling or permitting to be hauled or used on its line any car in violation of any of the provisions of this act, shall be liable to a penalty of one hundred dollars for each and every such violation, to be recovered in a suit or suits to be brought by the United States district attorney in the district court of the United States having jurisdiction in the locality where such violation shall have been committed, and it shall be the duty of such district attorney to bring such suits upon duly verified information being lodged with him of such violation having occurred. And it shall also be the duty of the Interstate Commerce Commission to lodge with the proper district attorneys information of any such violations as may come to its knowledge: *Provided*, that nothing in this act contained shall apply to trains composed of four-wheel cars or to locomotives used in hauling such trains.

POWER OF INTERSTATE COMMERCE COMMISSION TO EXTEND TIME OF CARRIERS TO COMPLY WITH THIS ACT.

§ 7. That the Interstate Commerce Commission may from time to time upon full hearing and for good cause extend the period within which any common carrier shall comply with the provisions of this act.

EMPLOYEES NOT DEEMED TO ASSUME RISK OF EMPLOYMENT.

§ 8. That any employe of any such common carrier who may be injured by any locomotive, car or train in use contrary to the provision of this act shall not be deemed thereby to have assumed the risk thereby occasioned, although continuing in the employment of such carrier after the unlawful use of such locomotive, car or train had been brought to his knowledge. (*Public No. 113, approved March 2, 1893.*)



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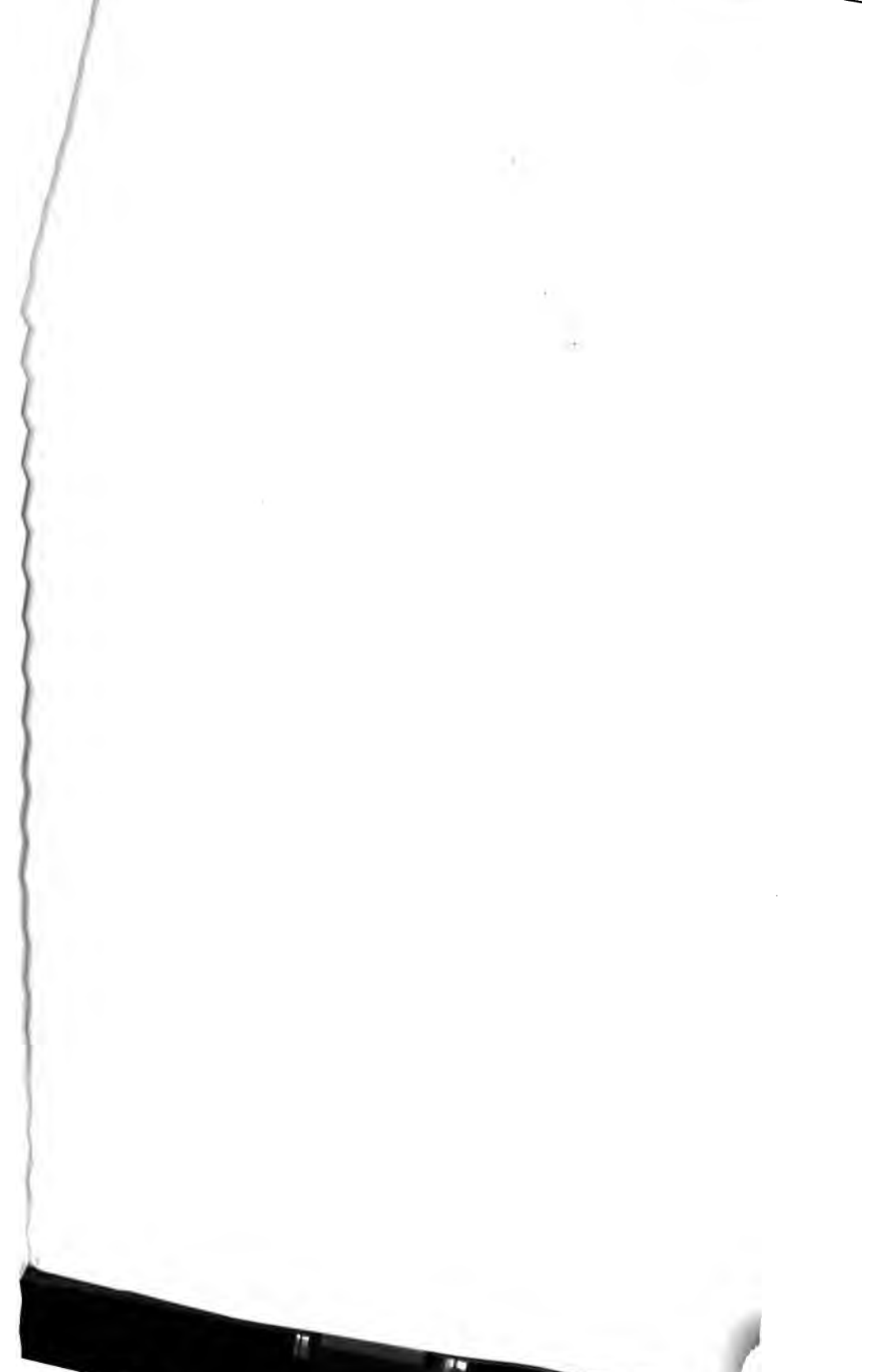
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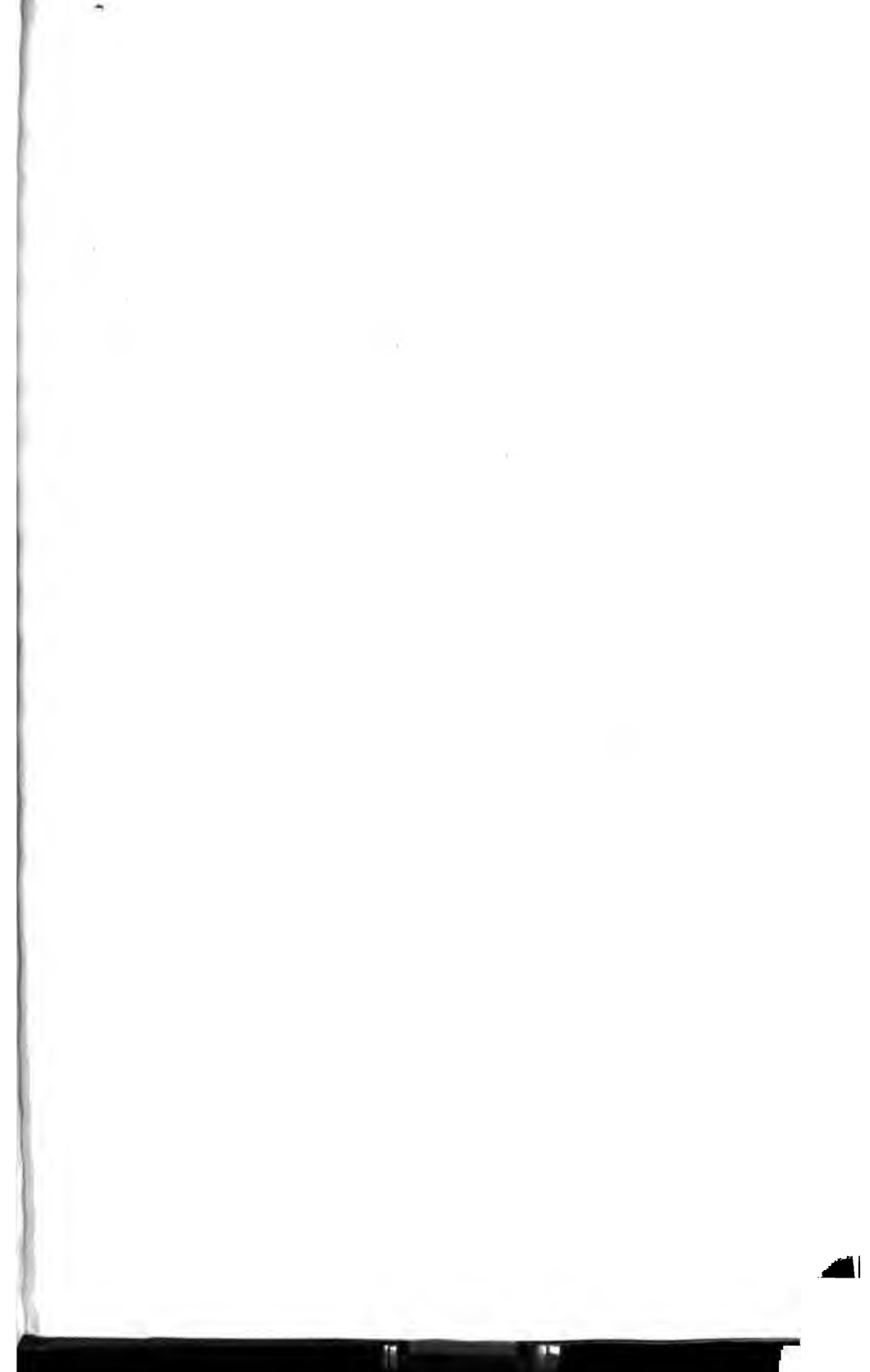
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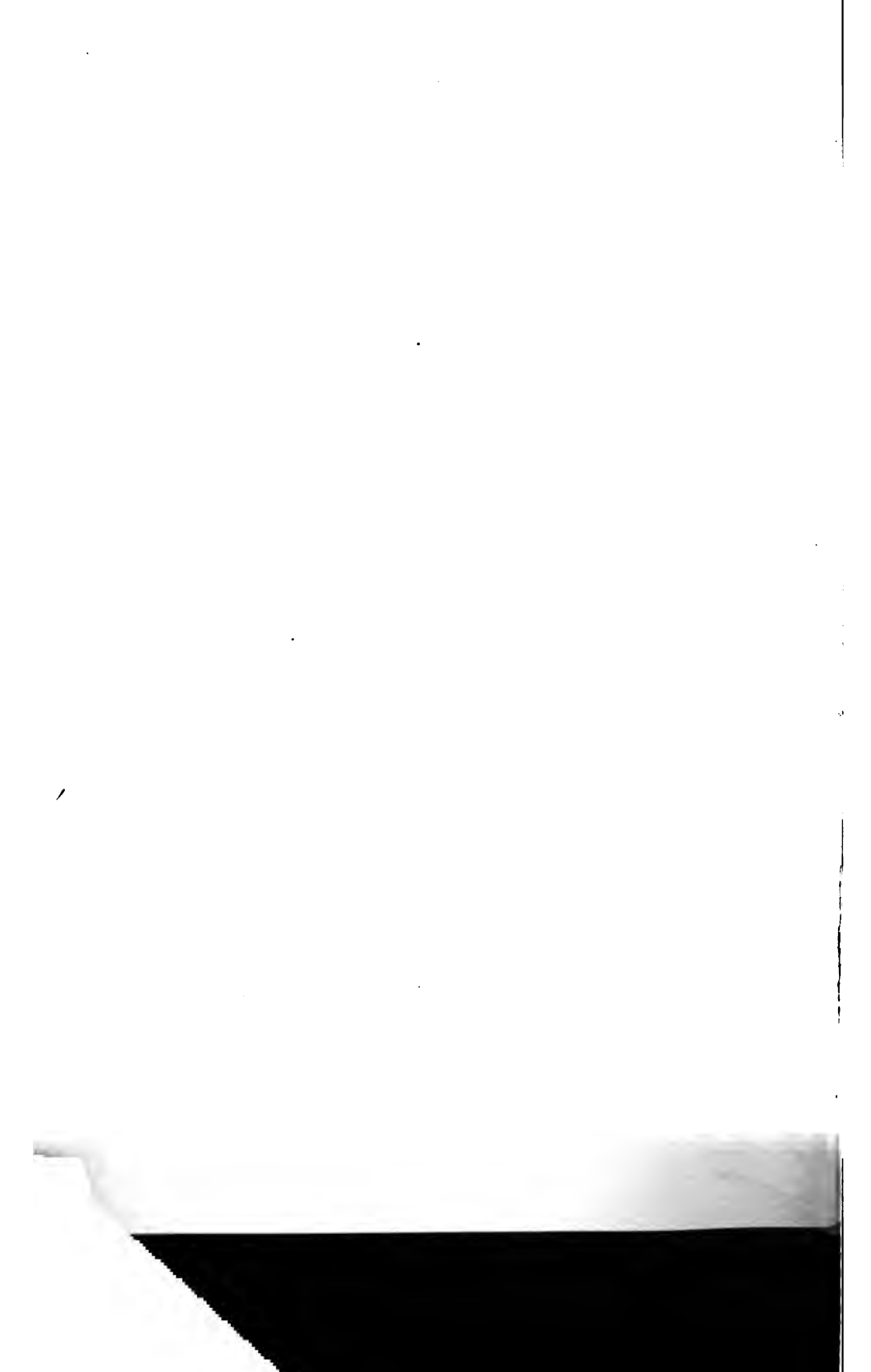
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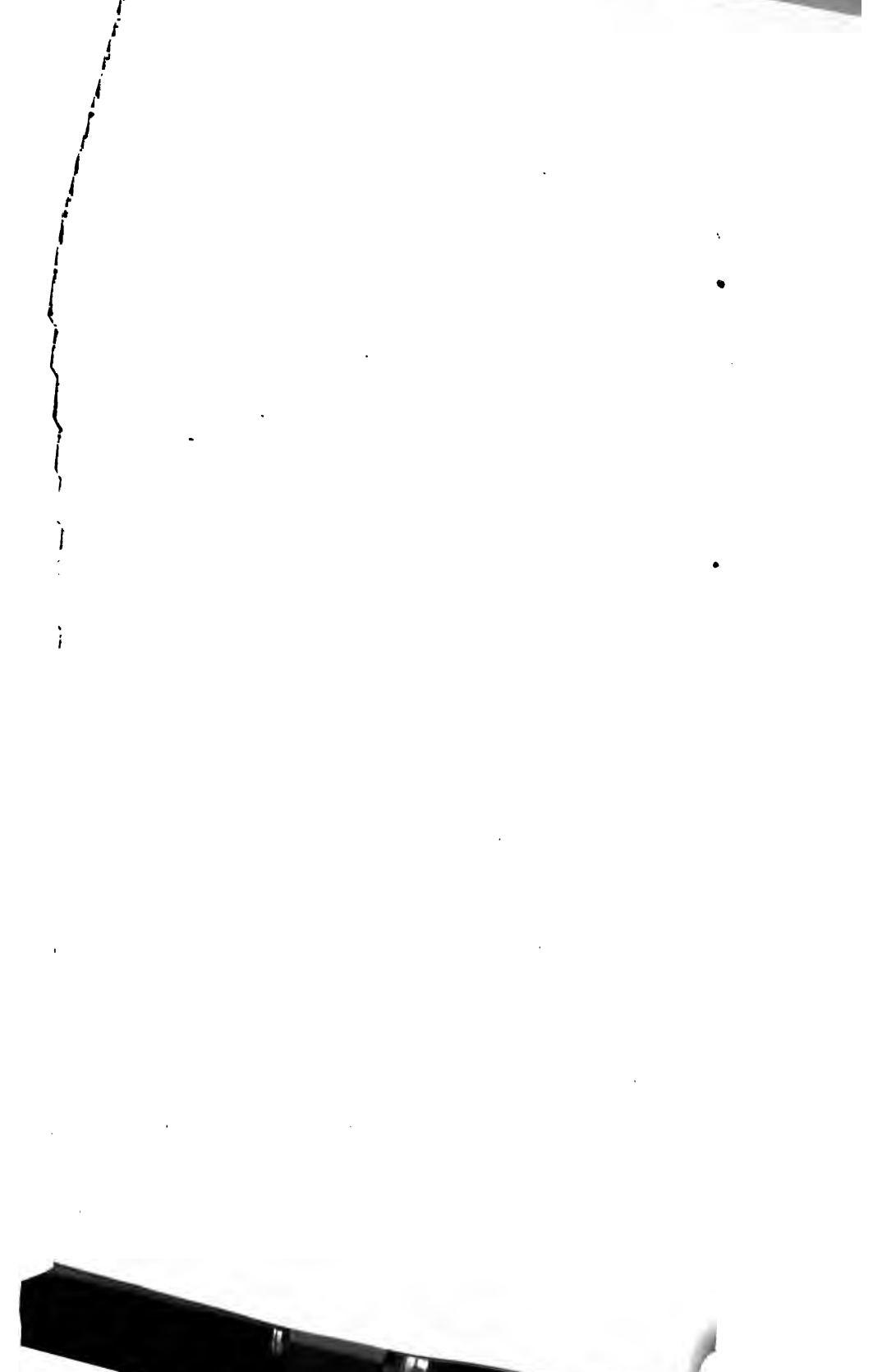


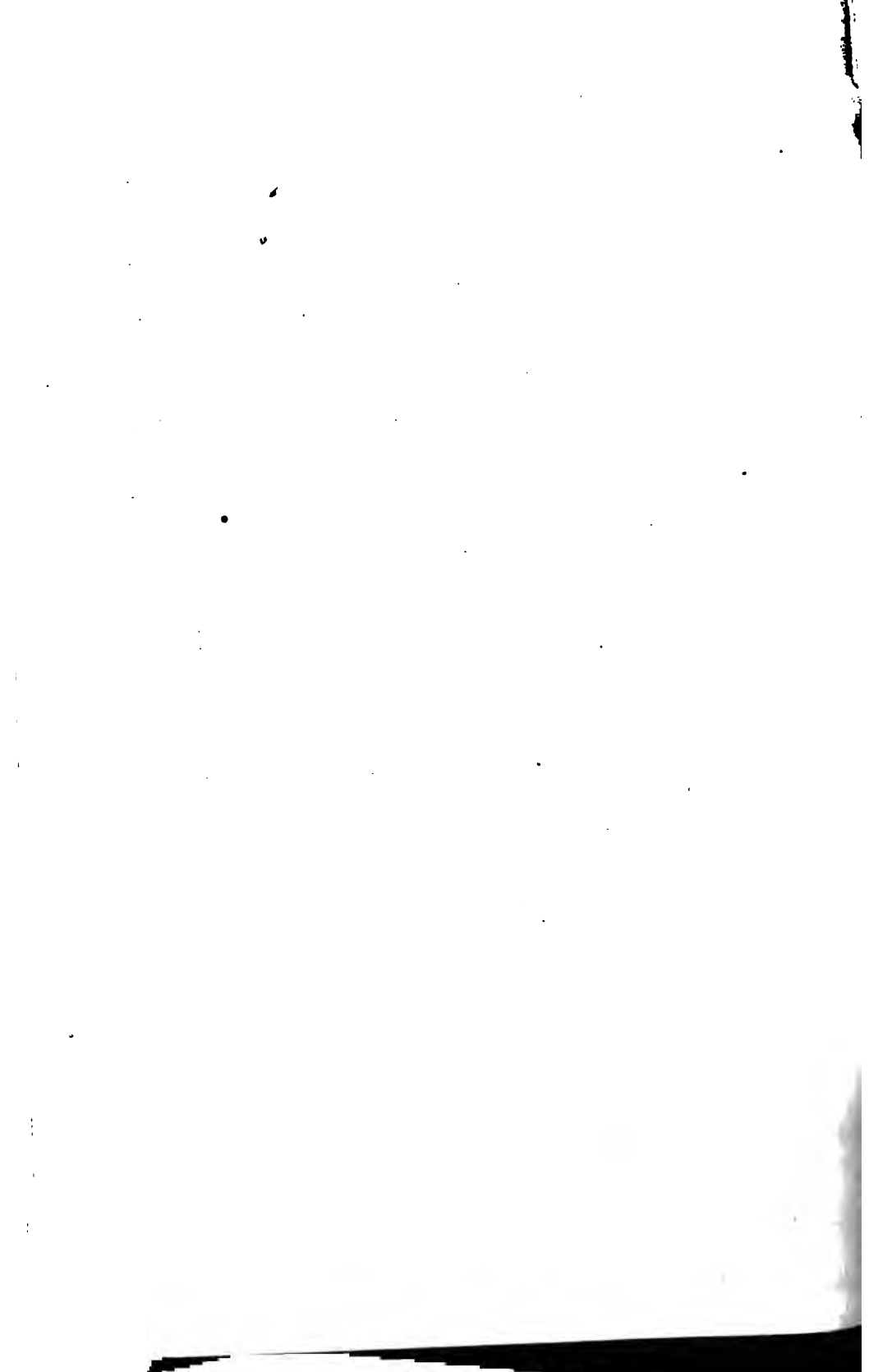












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